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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

DR. RUPA BALA,

Plaintiff,

v.

Case No.: 3:18-CV-00850-HZ

OREGON HEALTH AND SCIENCE UNIVERSITY,
an Oregon public corporation;
DR. CHARLES HENRIKSON, an individual;
DR. JOAQUIN CIGARROA, an individual,

Defendants.

REMOTE VIDEOTAPED DEPOSITION OF

MOLLY CARNES, M.D.

TAKEN ON
TUESDAY, JANUARY 9, 2024
10:06 A.M.

2014 CHAMBERLAIN AVENUE
MADISON, WISCONSIN 53726

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4 EXAMINATION BY MS. THOMPSON 8	4 TUESDAY, JANUARY 9, 2024
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6 EXAMINATION BY MR. BRISCHETTO 300	6
7	7 THE VIDEOGRAPHER: We are on the record.
8 FURTHER EXAMINATION BY MS. THOMPSON 301	8 The time is 10:06 a.m. The date is January 9, 2024.
9	9 This is the beginning of the deposition of
10	10 Dr. Molly Carnes. The case caption is Bala v. OHSU.
11	11 Will counsel please introduce themselves
12	12 and state who they represent.
13	13 MR. BRISCHETTO: Steve Brischetto, for the
14	14 plaintiff.
15	15 MS. THOMPSON: Andrea Thompson, for Oregon
16	16 Health and Sciences University, and Drs. Charles
17	17 Henrikson and Joaquin Cigarroa.
18	18 THE VIDEOGRAPHER: Okay. Ms. Thompson, if
19	19 you would like to make your stipulations and
20	20 everything before our court reporter swears in the
21	21 witness, you may do so.
22	22 MS. THOMPSON: Thank you.
23	23 Good morning, Mr. Brischetto. I just
24	24 wanted to get a few things, some stipulations on the
25	25 record before we administer the oath to Dr. Carnes.

<p>6</p> <p>1 Just want to make sure we're agreeing, 2 we're stipulating that Dr. Carnes's deposition is 3 taking place via remote means. 4 MR. BRISCHETTO: Agreed. 5 MS. THOMPSON: All right. And we are 6 stipulating that the oath can be administered by Ms. 7 Byrd, our court reporter, who is not present with 8 the witness. 9 MR. BRISCHETTO: Agreed. 10 MS. THOMPSON: All right. We're 11 stipulating that the video is being recorded by a 12 videographer, not the videoconferencing method, and 13 that the videographer's video will be the official 14 video record for use at trial. 15 MR. BRISCHETTO: Agreed. 16 MS. THOMPSON: And can we stipulate that 17 the time spent -- sorry. The time spent addressing 18 any technical issues today will not be counted 19 against the presumptive allotted deposition time of 20 seven hours? 21 MR. BRISCHETTO: Of course. 22 MS. THOMPSON: All right. That's what I 23 have, Ms. Byrd. 24 THE REPORTER: All right. 25 THE VIDEOGRAPHER: Okay. Our -- our court</p>	<p>8</p> <p>1 truth, was examined, and testified as follows: 2 EXAMINATION 3 BY MS. THOMPSON: 4 Q. Good morning, Dr. Carnes. 5 A. Good morning. 6 Q. My name is Andrea Thompson. I introduced 7 myself earlier. I am an attorney for OHSU and Drs. 8 Henrikson and Cigarroa. 9 Could you please state and spell your full 10 name for the record, please? 11 A. My last name is Carnes, C-A-R-N-E-S. And 12 professionally I go by Molly, M-O-L-L-Y, although my 13 birth certificate is Mary, M-A-R-Y. So you often 14 will see either one. 15 Q. Great. Thank you. 16 And I mentioned who I represent. As we go 17 through the deposition today I may refer to OHSU to 18 encompass not only OHSU but also the individual 19 doctors. 20 Do you understand? 21 A. Yes. 22 Q. Is that fair? 23 A. Yes. 24 Q. If I'm going to ask you a specific 25 question about Dr. Henrikson or Dr. Cigarroa, I will</p>
<p>7</p> <p>1 reporter will swear in the witness. 2 THE REPORTER: Good morning. Just real 3 quick. I am your court reporter for today and I 4 just have a quick statement to make for the record. 5 I would like everyone to please speak 6 loudly, clearly, and slowly so I can make an 7 accurate transcript today. Please try not to talk 8 over one another as I can only report one person 9 speaking at a time. I will be administering an 10 affirmation for any testimony given, and I would 11 like to stipulate for the record that the remote 12 affirmation and the remote testimony will be 13 administered and reported by myself, a professional 14 digital reporter. The testimony will be transcribed 15 and certified. 16 Dr. Carnes, would you please raise your 17 right hand for me. 18 Do you affirm, under penalty of perjury, 19 that you are Dr. Molly Carnes, and that the 20 testimony you are about to give will be the truth, 21 the whole truth, and nothing but the truth? 22 THE DEPONENT: Yes, I do. 23 THE REPORTER: Thank you. 24 Please proceed. 25 MOLLY CARNES, M.D., having affirmed to tell the</p>	<p>9</p> <p>1 specifically state that. 2 A. Okay. 3 Q. Do you understand? 4 A. Yes. 5 Q. Okay. Have you ever had your deposition 6 taken before? 7 A. No. 8 Q. So with that, and I'm not sure if you're 9 aware but I want to go over some ground rules with 10 you for the deposition. And let me just start by 11 saying doing depositions remotely this way can be a 12 little clunky. Normally, we're in person as we 13 planned to be with you but with the flight 14 cancellations and the weather we're doing this 15 remotely. So please bear with us. Some of the 16 technology could get clunky and the like but the 17 ground rules pretty much are the same. 18 A. I lived through the pandemic, so. 19 Q. Okay. All right. 20 So you understand that you just took an 21 oath to the tell the truth; correct? 22 A. Yes. Yes. 23 Q. And you understand that oath is the same 24 as if you were testifying in a courtroom before a 25 judge and before a jury?</p>

Molly Carnes MD January 9, 2024 NDT Assgn # 70899 Page 4

<p style="text-align: right;">10</p> <p>1 A. Yes.</p> <p>2 Q. And you understand that that oath carries</p> <p>3 a penalty of perjury which is a crime?</p> <p>4 A. Yes.</p> <p>5 Q. Do you understand that if you provide</p> <p>6 testimony that is not truthful today that we,</p> <p>7 counsel for OHSU, we will point that out to a judge</p> <p>8 and/or a jury?</p> <p>9 A. Yes.</p> <p>10 Q. Dr. Carnes, I'm entitled to your full and</p> <p>11 best testimony today because this may be the only</p> <p>12 time that I have an opportunity to speak with you</p> <p>13 before trial. So if I ask you a question and later</p> <p>14 on in the deposition you remember something else,</p> <p>15 right, I ask you a question, you give me an answer</p> <p>16 but later on you think of something else, will you</p> <p>17 please let me know and provide that additional</p> <p>18 information?</p> <p>19 A. Yes.</p> <p>20 Q. All right. Thank you.</p> <p>21 Is there anything going on right now in</p> <p>22 your life that would prevent you or impede your</p> <p>23 ability to give full and truthful testimony today?</p> <p>24 A. No.</p> <p>25 Q. Are you taking any medications right now</p>	<p style="text-align: right;">12</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And I anticipate because you're a</p> <p>3 medical professional and have 30 years of experience</p> <p>4 conducting research that there may be things I just</p> <p>5 don't understand, and I'll be asking you to help me</p> <p>6 understand. And so if my questions aren't good,</p> <p>7 please let me know. Okay?</p> <p>8 A. Sure.</p> <p>9 Q. At any point during your deposition you</p> <p>10 can request a break. If you request a break, I</p> <p>11 believe, and we can confirm, but I believe that you</p> <p>12 and Mr. Brischetto and/or Mr. Ellis can go into a</p> <p>13 separate breakout room if you want to have</p> <p>14 consultation or we just need comfort breaks. It's</p> <p>15 8:13 my time. I'm in Portland, Oregon right now and</p> <p>16 I've consumed a lot of coffee, so I may be asking</p> <p>17 for some comfort breaks early myself. Okay?</p> <p>18 So because the deposition is remote and</p> <p>19 this is -- these are rules we typically don't ask if</p> <p>20 we're in person. These are a little clunky. But</p> <p>21 absent certain circumstances, I need you to agree to</p> <p>22 power down all electric -- sorry, all electronic</p> <p>23 devices that are around you that aren't being used</p> <p>24 for the deposition.</p> <p>25 A. I don't think I have any.</p>
<p style="text-align: right;">11</p> <p>1 that might affect your ability to understand my</p> <p>2 questions or testify truthfully?</p> <p>3 A. No.</p> <p>4 Q. So we are on video and I can see your head</p> <p>5 shaking and I will be nodding and the like. Because</p> <p>6 Ms. Byrd, our court reporter, is taking everything</p> <p>7 down, it is very important that you answer audibly.</p> <p>8 So although I can see you shaking your head --</p> <p>9 A. Yes.</p> <p>10 Q. -- it doesn't reflect in the record.</p> <p>11 A. Okay. Thank you.</p> <p>12 Q. It's also very important for Ms. Byrd that</p> <p>13 we do not interrupt one another so we don't have</p> <p>14 crosstalk because it makes it impossible for her to</p> <p>15 take down the questions and answers.</p> <p>16 Do you understand?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Dr. Carnes, if you answer any of my</p> <p>19 questions today, I'm going to assume that you</p> <p>20 understood the question and that you provided me</p> <p>21 with your full and complete answer. Is that fair?</p> <p>22 A. Yes.</p> <p>23 Q. All right. And if you don't understand</p> <p>24 any of my questions I really need you to ask me to</p> <p>25 clarify the question. Is that fair?</p>	<p style="text-align: right;">13</p> <p>1 Q. I'm not talking about computer printers.</p> <p>2 I'm talking about cell phones, anything like that.</p> <p>3 Do you have any of those, any electronic devices</p> <p>4 near you?</p> <p>5 A. I do have my cell phone here. Do you want</p> <p>6 me to take it away?</p> <p>7 Q. If you could power it off, please.</p> <p>8 A. Oh, I can do that. I can do that.</p> <p>9 Okay. It is off.</p> <p>10 Q. Excellent. Thank you.</p> <p>11 And can I have your agreement that you</p> <p>12 will not communicate in any way with anyone not on</p> <p>13 the record during our deposition today?</p> <p>14 A. Yes.</p> <p>15 MR. BRISCHETTO: You're not asking her if</p> <p>16 -- you're not telling -- asking if she is committing</p> <p>17 not to confer with counsel during breaks; correct?</p> <p>18 MS. THOMPSON: Correct.</p> <p>19 MR. BRISCHETTO: Okay.</p> <p>20 BY MS. THOMPSON:</p> <p>21 Q. Obviously, Dr. Carnes, you can speak</p> <p>22 freely with Dr. -- excuse me, Mr. Brischetto during</p> <p>23 breaks. I can't imagine you would do this but we've</p> <p>24 had other situations where unbeknownst to us there</p> <p>25 were other people in the room with the witness who</p>

<p>14</p> <p>1 are, you know, passing notes and the like. So I 2 just want to confirm there's no one else in the room 3 with you today? 4 A. No. Right now there's not even anybody 5 else in the house but my husband may come home 6 later. 7 Q. Okay. 8 A. But not in this room. 9 Q. All right. And if anyone does enter the 10 room would you let me know immediately? 11 A. Yes. 12 Q. All right. And if anyone attempts to 13 communicate with you other than Mr. Brischetto or 14 Mr. Ellis will you notify us immediately? 15 A. Yes. 16 Q. And do you agree not to email during our 17 deposition? 18 A. Yes. 19 Q. Do you agree not to engage in any online 20 chat during our deposition? 21 A. Other than with Mr. Brischetto, is that 22 right? Am I not allowed -- 23 Q. During a break -- during a break you may 24 -- 25 A. Oh, during a break, no. Or, yes. During</p>	<p>16</p> <p>1 A. Built in bookshelves. I tried to 2 straighten the books in the background so I didn't 3 look as messy as I usually do but you caught me. 4 You made me show the other piles of stuff. 5 Q. Dr. Carnes, I have my screen blurred. 6 A. So you get it. 7 Q. Yes. In part because I have other client, 8 you know, matters behind me but yeah, I gotcha. 9 And then because we're videorecording this 10 and the like, can you agree to do your best to try 11 to keep the video free from distractions such as 12 background noise, pets, kids, and the like? We just 13 want a clean record. 14 A. Yes. I will do everything I possibly can. 15 Q. Right. All right. 16 Dr. Carnes, how did you prepare for this 17 deposition? 18 A. I re-read my testimony that I had written 19 and submitted. And, excuse me, I pulled up and 20 reviewed some of the materials I referred to in that 21 testimony. I refreshed my recall of some of the 22 papers I referred to. I would say that's pretty 23 much it. 24 Q. Okay. Have you discussed this case with 25 anyone other than counsel for Dr. Bala?</p>
<p>15</p> <p>1 a break I can communicate with him but not -- I 2 won't chat with him during the Zoom. Is that right 3 then? 4 Q. Correct. 5 A. Is that what you're saying? Okay, sure. 6 Yep. Yep. 7 Q. Okay. And similarly, you agree that you 8 will not be texting with anyone during our 9 deposition? 10 A. I just turned my phone off. 11 Q. All right. Again, I hate to ask but I 12 have to. Is it possible for you to just briefly -- I 13 don't know what kind of setup you have. I don't 14 want to knock your video out but is it possible for 15 you to take your camera and pan the room -- 16 A. Oh, sure. 17 Q. -- to confirm there's no one else present? 18 A. I think so. It's just a small little 19 office. Okay, here we go. I've got the camera here. 20 There's a window. There's a messy little desk. 21 There's a door. 22 Q. You have beautiful furniture. 23 A. It's an old house but that's pretty much 24 it. It's just a little office. 25 Q. All right. Thank you so much. Thank you.</p>	<p>17</p> <p>1 A. No. 2 Q. Do you have any documents in front of you 3 right now related to this case? 4 A. Yes. I tried to pull out things I thought 5 might be useful so I have -- not everything 6 obviously but I have some things at my fingertips. 7 I have my statement here, for example. 8 Q. So Dr. Carnes, I'm going to request, if we 9 were in a deposition room in person together you 10 would be sitting at a conference room table with 11 nothing in front of you. So I'm going to ask you to 12 please take that stack of papers that you have and 13 put it under your desk, someplace that you can't 14 review them. 15 A. Got it. Done. 16 Q. All right. Were any of the documents that 17 you reviewed or that you pulled that you just had in 18 front of you, were any of those documents, documents 19 that were not provided to you by Dr. Bala's counsel? 20 A. Well, I reviewed some of the studies which 21 I had pulled but any of the materials related to the 22 exhibits it had all been provided to me a long time 23 ago. 24 Q. Okay. And when you're referring to 25 studies, are all of the studies that you pulled,</p>

<p style="text-align: right;">18</p> <p>1 that you now have under your desk, are all of those 2 studies that were outlined in your reference page of 3 your report? 4 A. Yes. Yes. 5 Q. Any other studies beyond those outlined in 6 your report, or I believe you sent Mr. Brischetto a 7 supplemental email with some additional studies? 8 A. Yeah. I didn't re-review those in 9 preparation for today. I did read them over -- when 10 he sent them to me and I concluded that there was 11 really nothing new. I mean, it was just simply more 12 evidence of the existence of widespread gender bias 13 throughout academic medicine and also I concluded 14 that even if there had been something it was many 15 years beyond what Dr. Bala had experienced. So 16 basically, I did look at them but not in preparation 17 for today. Today I only looked at things that I had 18 cited. 19 Q. I'm not sure I understand your answer. 20 A. Well, I -- you're not -- okay. I think it 21 was a few months ago Mr. Brischetto sent me some new 22 papers in academic medicine that had looked at 23 gender bias and I did look at those papers. In 24 preparation for today though I didn't look at any 25 additional papers from those that I cited in my</p>	<p style="text-align: right;">20</p> <p>1 email that is from Dr. Carnes to you, Mr. 2 Brischetto, sent on September 19, 2023, where Dr. 3 Carnes writes, "I am forwarding these recent 4 publications on which I'm either first author, 5 senior author, or contributing editor." And then 6 there is a list of 11 articles. 7 MR. BRISCHETTO: Thank you for refreshing 8 my recollection. You're right. That email did not 9 contain those additional studies that we sent to Dr. 10 Carnes. I honestly don't know if we sent you those 11 additional ones because she didn't rely on them but 12 I'm certainly happy to send them to you like during 13 the break or something like that if you want to take 14 a look at them. 15 MS. THOMPSON: Please. 16 MR. BRISCHETTO: Sure. 17 BY MS. THOMPSON: 18 Q. Dr. Carnes, the materials that Mr. 19 Brischetto provided to you which we have not seen 20 yet, did any of those materials change your opinion 21 or opinions as stated in your June 29, 2021, report? 22 A. No. 23 MS. THOMPSON: Dr. Carnes and Mr. 24 Brischetto, do you see there's a chat function at 25 the bottom of the Zoom screen?</p>
<p style="text-align: right;">19</p> <p>1 written report. 2 Q. Okay. So your testimony is that -- sorry, 3 I'm so used to being respectful and calling folks 4 doctor, doctor, doctor that I'm referring to Mr. 5 Brischetto as a doctor. 6 A. (Audio disruption.) 7 Q. I think what you are testifying to is that 8 Mr. Brischetto provided you some studies -- 9 A. Yes. 10 Q. -- to review. And did Mr. Brischetto 11 provide those studies to you to review prior to you 12 drafting your June 29, 2021, report? 13 A. No. They hadn't come out yet. They were 14 new because the case was so long ago and gender bias 15 continues to be studied in academic medicine. And 16 there really is nothing new. It's just more of the 17 same. 18 Q. Okay. 19 MS. THOMPSON: Mr. Brischetto, did you 20 provide us a list of those studies? 21 MR. BRISCHETTO: Yeah. You referred to 22 the list. In the expert disclosure there's an email 23 with those studies. 24 Does that answer your question? 25 MS. THOMPSON: One moment. I have an</p>	<p style="text-align: right;">21</p> <p>1 THE DEPONENT: Yes. 2 MS. THOMPSON: So if you click on that, 3 depending on how your Zoom is set up, you should see 4 a ribbon on the right hand side. 5 THE DEPONENT: Okay. 6 MS. THOMPSON: And you should see a PDF in 7 the chat. 8 MR. BRISCHETTO: I don't see a PDF in the 9 chat. 10 THE DEPONENT: I don't either. 11 MS. THOMPSON: Okay. Let me -- I did a 12 test earlier. 13 Let me know if you see -- 14 THE DEPONENT: There it is. Now I see it. 15 Yes. 16 MS. THOMPSON: All right. 17 MR. BRISCHETTO: I've got it, too. 18 BY MS. THOMPSON: 19 Q. Okay. So again, Dr. Carnes, we're not in 20 person so doing a remote deposition can be a little 21 clunky. 22 What I have posted into the chat is 23 Document A, which I would like to introduce as 24 Exhibit 1 to your deposition. 25 (WHEREUPON, Exhibit 1 was marked for</p>

<p style="text-align: right;">22</p> <p>1 identification.)</p> <p>2 THE DEPONENT: Do you want me to open it</p> <p>3 then?</p> <p>4 MS. THOMPSON: Please.</p> <p>5 Actually, I'm going to screenshare but I</p> <p>6 want you to have access to the full document.</p> <p>7 THE DEPONENT: So I clicked on it. It</p> <p>8 didn't open.</p> <p>9 MS. THOMPSON: You should be able to see a</p> <p>10 copy of your report at this point.</p> <p>11 MR. BRISCHETTO: When I click, it sends me</p> <p>12 to save.</p> <p>13 THE DEPONENT: Oh, now it opened. Okay.</p> <p>14 Yes. I have it. Yes. Oh, because you screenshared</p> <p>15 it. That's why. I am viewing Andrea Thompson's</p> <p>16 screen. Okay. So then I can't move it; right? Do</p> <p>17 you want me to be able to move it?</p> <p>18 BY MS. THOMPSON:</p> <p>19 Q. Well, that's why I provided the --</p> <p>20 A. Okay. Let me -- let's see. If you can go</p> <p>21 back to the chat. If I save it then it will let me</p> <p>22 open it. So if I can go back to that. Go back to</p> <p>23 the chat window. I think if I save it, it'll let me</p> <p>24 open it.</p> <p>25 ZOOM TECHNICIAN: So Dr. Carnes and</p>	<p style="text-align: right;">24</p> <p>1 June 29, 2021, report; correct?</p> <p>2 A. I do.</p> <p>3 Q. Okay.</p> <p>4 A. I have it right up in front of me. I</p> <p>5 can't see anybody else now but that's fine.</p> <p>6 Q. Okay. And we're marking that as Exhibit</p> <p>7 1.</p> <p>8 Dr. Carnes, did you seek the input of</p> <p>9 anyone regarding the content of Exhibit 1?</p> <p>10 A. No.</p> <p>11 Q. You had no discussion with any of your</p> <p>12 colleagues about the content of your 2021 report?</p> <p>13 A. No.</p> <p>14 Q. Okay. Do you know who Dr. Peter Glick is?</p> <p>15 A. Yes. In fact, I cited some of his work.</p> <p>16 Q. Yeah. I noticed that.</p> <p>17 A. I've never met him but I have been an</p> <p>18 admirer of his work for many years but I don't know</p> <p>19 him.</p> <p>20 Q. Okay. So you haven't discussed this case</p> <p>21 with Dr. Glick?</p> <p>22 A. No. I've never met him.</p> <p>23 Q. Okay. So just to be clear, and Dr.</p> <p>24 Carnes, I apologize. Sometimes I'm going to forget</p> <p>25 answers that you've given so I may ask you questions</p>
<p style="text-align: right;">23</p> <p>1 counsel, when a document is in the chat you'll have</p> <p>2 to download it and then it'll go into your downloads</p> <p>3 folder and you can open it that way. And if you --</p> <p>4 since our -- Ms. Thompson is sharing her screen,</p> <p>5 you're probably in full screen mode. Just hit your</p> <p>6 escape button. It'll minimize that so you can see</p> <p>7 the chat bar.</p> <p>8 THE DEPONENT: Got it. Okay. All right.</p> <p>9 So if I open it here I can save it.</p> <p>10 ZOOM TECHNICIAN: If you click the blue</p> <p>11 downward arrow --</p> <p>12 THE DEPONENT: Yep.</p> <p>13 ZOOM TECHNICIAN: Yeah.</p> <p>14 THE DEPONENT: I'm getting there. Let's</p> <p>15 see.</p> <p>16 MR. BRISCHETTO: I'm there. No pressure,</p> <p>17 Molly.</p> <p>18 MS. THOMPSON: I was going to say, Steve,</p> <p>19 I'm impressed.</p> <p>20 MR. BRISCHETTO: Don't be, really.</p> <p>21 THE DEPONENT: Okay. Okay. I have it</p> <p>22 now. Now, I don't know where everybody else went</p> <p>23 though. All right.</p> <p>24 BY MS. THOMPSON:</p> <p>25 Q. All right. So you have a copy of your</p>	<p style="text-align: right;">25</p> <p>1 again. And if it becomes -- and Mr. Brischetto, you</p> <p>2 may have opinions about that but I just want to be</p> <p>3 very clear that you received no input from anyone</p> <p>4 related to your June 2021 report?</p> <p>5 A. No.</p> <p>6 Q. Did Dr. Bala have any input on the</p> <p>7 specific opinions you expressed?</p> <p>8 A. I've never met Dr. Bala.</p> <p>9 Q. Did Dr. Bala's counsel have any input on</p> <p>10 the specific opinions you expressed in your report?</p> <p>11 A. No.</p> <p>12 Q. Any input on how you phrased any of your</p> <p>13 opinions in your expert report?</p> <p>14 A. Not that I recall.</p> <p>15 Q. Is there anything that I could do to</p> <p>16 refresh your memory today as to whether or not Dr.</p> <p>17 Bala's counsel provided --</p> <p>18 A. You can ask -- you can ask Mr. Brischetto</p> <p>19 but I'm pretty sure I did this all on my own.</p> <p>20 Q. Okay. Are you aware that Dr. Glick issued</p> <p>21 an expert report in this case?</p> <p>22 A. Yes.</p> <p>23 Q. And have you seen that report?</p> <p>24 A. Yes. I asked to read it because I am such</p> <p>25 an admirer of his work and Mr. Brischetto said as</p>

<p style="text-align: right;">26</p> <p>1 long as I didn't share it with anybody, I guess he 2 checked to see if it was okay. And I -- I was 3 pleased to see that -- well, I thought it was a very 4 eloquent report but I was pleased to see that we had 5 actually cited some of the same research, but I was 6 also pleased to see that he really didn't have the 7 academic medicine piece which I think I was brought 8 in for and that I was pleased to see I was able to 9 add to his. Because at first I thought, well, what 10 am I going to add to Peter Glick, but I was pleased 11 to see that I actually was able to add quite a bit 12 because his work has not been in academic medicine. 13 MR. BRISCHETTO: I would caution, Dr. 14 Carnes, not to disclose your conversations with 15 counsel because that's privileged. 16 THE DEPONENT: Oh, I'm sorry. Okay. 17 MR. BRISCHETTO: It's all right. Thank 18 you. 19 BY MS. THOMPSON: 20 Q. Dr. Carnes, did you provide any commentary 21 or suggestions regarding Dr. Glick's opinion in this 22 case? 23 A. No. 24 Q. Okay. How did you obtain the studies that 25 you reference in your June 2021 report?</p>	<p style="text-align: right;">28</p> <p>1 should open up like preview Windows and you should 2 be able to see. Because Ms. Thompson is still 3 sharing her screen so you'll probably see that 4 document. And if not I think -- 5 THE DEPONENT: Okay, now, there was a 6 little green arrow and I clicked that and I'm back. 7 Thank you for helping me. It just -- it was a 8 little disconcerting not to see anybody. Thank you. 9 BY MS. THOMPSON: 10 Q. All right. So other than the materials 11 that Mr. Brischetto provided you more recently, all 12 of the studies and citations and references that you 13 relied upon in forming your opinions in your June 14 2021 report you selected and identified based on 15 your review of literature? 16 A. Yes. 17 Q. All right. Thank you. 18 Dr. Carnes, what is your current 19 occupation? 20 A. I'm not employed. 21 Q. What was your last position? 22 A. I was a professor of medicine, psychiatry, 23 and engineering at the University of Wisconsin. 24 Q. Okay. I reviewed your CV, which is very 25 impressive. You graduated with a bachelor of arts</p>
<p style="text-align: right;">27</p> <p>1 A. Well, as a faculty member at the 2 University of Wisconsin I have access to a vast 3 library of materials. And I just accessed them. 4 Reviews. The way I usually do as a tenured faculty 5 member. I research the literature. 6 Q. Okay. And that's what I was getting to. 7 Not the actual mechanics of how you retrieve the 8 studies but you, yourself, selected the studies that 9 you cited in your report; correct? 10 A. Yes. 11 Q. Okay. 12 A. Can I say, I completely lost the ability 13 to see anybody. Can the -- can the technical person 14 tell me how I can just see people again? All I'm 15 looking at is my home screen. I must have reduced 16 everybody. 17 ZOOM TECHNICIAN: Absolutely. So Dr. 18 Carnes, if you just go on your computer desktop 19 taskbar where you see the Zoom icon. 20 THE DEPONENT: Oh, yes. Okay. If I click 21 that will you come back? 22 ZOOM TECHNICIAN: Yes, we will come back. 23 THE DEPONENT: No, you didn't. Okay. I'm 24 clicking it. 25 ZOOM TECHNICIAN: If you hover over it, it</p>	<p style="text-align: right;">29</p> <p>1 degree in 1973; is that correct? 2 A. Yes. The years, I have to remember the 3 years but I'll stipulate that's correct. 4 Q. Okay. 5 A. That sounds right. 6 Q. What was your major? What did you receive 7 a degree in? 8 A. Honestly, I don't remember. I think it 9 was called a premed major. 10 Q. Okay. And you received your medical 11 degree in 1978? 12 A. Yes. 13 Q. And you received a Master of Science 14 degree in 2001; right? 15 A. In epidemiology. Yes. 16 Q. What is epidemiology? 17 A. It's the study of risk factors for 18 populations. I was particularly interested in 19 applying the principles of epidemiology to help 20 understand, for example, why women medical studies, 21 a very healthy population of people, were dying off 22 and not surviving to be healthy faculty members 23 since no disease in the western world has the death 24 rate that at that time was seen for women medical 25 students dying off before they became faculty. So</p>

<p>30</p> <p>1 generally, the principles of epidemiology are 2 applied to health. But I wanted to learn more about 3 epidemiology so that I could apply those principles 4 to academic medicine. 5 I hope that answers your question. 6 Q. Well, you answered my question. I want to 7 unpack that a little bit. 8 When you refer to the death and dying of 9 female medical students, are you referring to them 10 actually becoming deceased? 11 A. No. I'm using it metaphorically. 12 Dropping out of the pipeline. So at every -- so for 13 example, there have been almost 50 percent of 14 medical students who identify as women in medical 15 school for 30 years or more now. And at least when 16 I began studying this the percentage of women 17 faculty and the percentage of women full professors 18 was far lower than this. For example, in my own 19 institution there was one M.D. full professor woman 20 when I started studying this in the largest 21 department in the University of Wisconsin. 22 Q. And so if I understand you -- I'm sorry, 23 what is epidemiology again? 24 A. Well, it's applying risk factors to 25 populations of people to understand why some groups</p>	<p>32</p> <p>1 because I had a rather large grant. My clinical 2 work has pretty much always been at the VA. 3 Q. Okay. When was the last time that you 4 admitted a patient to a hospital? 5 A. Oh, I haven't seen patients for a long 6 time. I was successful in research, so although I 7 was an administrator of clinical programs, I did not 8 see patients for quite a while. I developed the 9 Women Veterans Health Program. I wrote some of the 10 initial grants to establish and was a leader in 11 establishing geriatrics. We have a large geriatric 12 program at the VA and the university. So I was 13 involved more in an administrative and programmatic 14 level. And education level. I directed the 15 fellowship program. But actually seeing patients, I 16 would say again when I retired from the VA. So that 17 would have been, what did I say, '20? It's either 18 2019 or 2020. 19 Q. So you were actively seeing patients up 20 until 2019 or 2020? 21 A. Yeah. I was mostly in a supervisory 22 capacity. So I was the attending physician 23 supervising residents and fellows. But I didn't 24 actually -- I didn't have my own practice for a 25 long, long time.</p>
<p>31</p> <p>1 of people experience some phenomenon related to 2 health or something else and other groups of people 3 do not experience that. So, for example, you might 4 look at a population of people who have lung cancer 5 and say, you know, which of the people in this 6 population smoked and who didn't? What are the risk 7 factors for lung cancer? And I was interested in 8 the risk factors for men succeeding in academic 9 medicine and women, and then applying it to other 10 vulnerable groups. But we'll use women as the 11 minoritized group here. Women not succeeding to 12 become full professors. 13 Q. All right. Thank you. 14 MR. BRISCHETTO: Counsel, for the record, 15 Mr. Ellis has come into the office here with me and 16 is listening in. 17 (WHEREUPON, Mr. Ellis joined the 18 deposition.) 19 BY MS. THOMPSON: 20 Q. Dr. Carnes, it appears from the CV that 21 you attached to your report that your last hospital 22 appointment was in 2011; is that correct? 23 A. My last hospital appointment was 2020. Or 24 2019, I believe. And that's when I retired from the 25 VA and moved my full position over to the university</p>	<p>33</p> <p>1 Q. When did -- when did you stop having your 2 own practice? 3 A. I don't think -- I don't think it's 4 relevant because I actually had to tell the 5 university that nothing I was doing with you had 6 anything to do with my clinical expertise. 7 Otherwise, it's a complicated system, but faculty 8 who are physicians -- I'm a physician-scientist so I 9 had to tell the university that what I was doing 10 here related to my science. 11 Q. Dr. Carnes, I'm sorry, I don't mean to 12 interrupt you. 13 A. Yeah, it's okay. I know I'm supposed to 14 keep this short but it's complicated. 15 Q. And so I hope my question is very simple. 16 When did you stop having your own patient 17 load? What year? 18 A. I'm not sure I ever had my own patient 19 load. I don't think I ever had a practice. 20 Q. When you say that you've never had a 21 practice, what do you mean by that? 22 A. Well, because I am part of an academic 23 medical center, I supervised residents. I 24 supervised fellows. But I really never had a 25 practice such that you would envision a physician</p>

<p>34</p> <p>1 having a practice. There would be no time you could 2 ask a patient who's your doctor and they would say 3 me. 4 Q. Okay. Thank you. 5 A. But again, please don't make that relevant 6 or I'm going to get in trouble with the university. 7 My clinical expertise has nothing to do with my 8 deposition or my involvement in this case. 9 Q. Dr. Carnes, your CV indicates that you're 10 board certified in internal medicine and geriatrics; 11 is that correct? 12 A. Yes. 13 Q. Have you ever been board certified as a 14 surgeon? 15 A. No. 16 Q. Have you ever been board certified as a 17 proceduralist? 18 A. No. 19 Q. And you are not board certified in 20 cardiology; correct? 21 A. No. No, definitely not. 22 Q. When was the last time that you performed 23 a surgery? 24 A. I don't do -- never did surgery. 25 Q. When was the last time that you performed</p>	<p>36</p> <p>1 Q. Have you ever been in a catheter lab 2 related to electrophysiology? 3 A. No. I'm assuming as a patient doesn't 4 count; right? Right. Okay. 5 Q. I hope you weren't observing your -- 6 A. Right. 7 Q. Right. Yes. Okay. 8 And forgive me, I think you've answered 9 these questions but I want to have a very clean 10 record. 11 So if I understand you correctly, you've 12 never observed an EP procedure? And when I use the 13 term EP, that's shorthand for electrophysiology. 14 A. Right. Right. No, I don't think I've 15 ever personally observed one. No. 16 Q. Okay. Have you ever conducted any studies 17 comparing the behavior of male and female 18 electrophysiologists? 19 A. No. 20 Q. Have you ever conducted any studies 21 comparing the reactions of others to male and female 22 electrophysiologists? 23 A. No. I don't think anybody has. 24 Q. I'm sorry? 25 A. I don't think anybody has.</p>
<p>35</p> <p>1 an invasive procedure? 2 A. No. Never. 3 Q. When was the last time you were in an 4 operating room? 5 A. Oh, when I was a medical student. 6 Q. So that would have been back in the '70s? 7 A. Yep. 8 Q. Okay. When was the last time you were in 9 a procedure room? And when I say procedure room, 10 just so that we're clear, I understand, and you 11 would know better than I do, but I understand there 12 are surgeries and then there are procedures. 13 A. Mm-hmm. 14 Q. Do you understand that distinction? 15 A. Yeah, absolutely. 16 Q. Okay. 17 A. I was not in a procedural specialty which 18 would be, you know, cardiology, pulmonology. You 19 can -- you can -- I could just stipulate, no, I've 20 never done procedures. I've never done surgery. I 21 was an internist, and geriatrics is definitely not a 22 procedural specialty. 23 Q. Okay. Have you ever been in an 24 electrophysiology lab? 25 A. Not -- no. Unh-unh.</p>	<p>37</p> <p>1 Q. Okay. And you have a very broad and 2 extensive knowledge of the social science research 3 related to medicine and subspecialties; correct? 4 A. I would like to think so. 5 Q. Okay. What is cardiac ablation? 6 A. So the EP cardiologist will map out the 7 electrical charge given by different, like muscle 8 bundles in the heart. And sometimes one of these 9 muscle bundles will go awry and they carefully map 10 it out and then they'll actually ablate with like 11 cautery. They'll kill those cells off so that they 12 can't override the normal sinoatrial node as it 13 directs the heart to beat regularly. 14 Q. And your understanding of cardiac 15 ablation, how did you come to that knowledge? 16 A. Well, I'm a physician. We get generally 17 no, you know, even though I might not have been 18 seeing patients, I would have been involved in 19 helping refer patients for ablation or consult with 20 EP cardiologist. So I don't have an in-depth 21 knowledge. I haven't been in the catheter lab but 22 I, as an internist, I interacted with EP 23 cardiologists and I have a general understanding of 24 it. 25 Q. Okay. Is cardiac ablation a high-risk</p>

<p style="text-align: right;">38</p> <p>1 procedure?</p> <p>2 A. I would say, I mean, on the scale of risk</p> <p>3 where, you know, a surgeon is repairing a ruptured</p> <p>4 abdominal aorta or a gunshot wound versus, you know,</p> <p>5 a vaccine, if you would say that's the whole</p> <p>6 spectrum of invasiveness, I would say EP cardiology</p> <p>7 is probably like maybe 15, 30 percent on that scale.</p> <p>8 So it's -- they don't open the heart. It's not a</p> <p>9 thoracotomy. But yeah, they're in the heart with,</p> <p>10 you know, electricity. It's pretty high risk.</p> <p>11 Q. And when you're saying 15 to 30 percent,</p> <p>12 could you -- 15 to 30 percent of --</p> <p>13 A. Of risk. I'm saying if the highest risk</p> <p>14 was like repairing a gunshot wound in surgery and</p> <p>15 the lowest risk was a vaccine, I'd put EP ablation</p> <p>16 maybe 15 percent in my mind. But that's the way I</p> <p>17 view it in terms of risk. But it's certainly, you</p> <p>18 know, it's not something you would undergo lightly.</p> <p>19 And oftentimes, in fact, because of that, even</p> <p>20 though it's relatively low risk, sometimes, I mean,</p> <p>21 quite often people, patients who have abnormalities</p> <p>22 that would potentially be abatable are treated</p> <p>23 medically. Are treated with medications to try to</p> <p>24 suppress that abnormal beat to avoid having to go to</p> <p>25 EP.</p>	<p style="text-align: right;">40</p> <p>1 people, for example, those who have ventricular</p> <p>2 arrhythmias, those who have atrial fibrillation,</p> <p>3 they have a lot of other comorbidities. They have</p> <p>4 hypertension. They're obese. They have diabetes.</p> <p>5 So then the Carnes risk scale would go way up. Then</p> <p>6 we're maybe talking about 50-60 percent because of</p> <p>7 these other comorbidities. I was just giving that</p> <p>8 pure risk in an otherwise healthy person without</p> <p>9 diabetes, without hypertension, without heart</p> <p>10 failure.</p> <p>11 But Dr. Bala was recruited specifically,</p> <p>12 as I recall, to lead the real complex ones. The</p> <p>13 ones that would have to -- that would have these</p> <p>14 comorbidities and would have complex rhythms that</p> <p>15 were under her area of expertise. That's why she was</p> <p>16 recruited it sounds like.</p> <p>17 Q. Dr. Carnes, does the level of risk</p> <p>18 associated with a surgery or procedure affect how</p> <p>19 physicians behave when they're performing those</p> <p>20 procedures?</p> <p>21 A. Well, I can't specifically speak to all</p> <p>22 physicians. That would be a little presumptuous.</p> <p>23 But I think that anybody who is doing something on</p> <p>24 another human being in a way that requires a lot of</p> <p>25 training, requires concentration, I think -- now I'm</p>
<p style="text-align: right;">39</p> <p>1 Q. So getting back to your 15 to 30 percent,</p> <p>2 are you saying that on your scale repairing a</p> <p>3 gunshot wound would be 100 percent?</p> <p>4 A. Yes. Yes.</p> <p>5 Q. And something like a vaccine would be zero</p> <p>6 percent?</p> <p>7 A. Yes. Yeah. That was my scale.</p> <p>8 Q. Okay.</p> <p>9 A. The Carnes scale of risk. There's no data</p> <p>10 there but, I mean, that's the way I view it. So</p> <p>11 again, it's not no risk. But if you have a patient</p> <p>12 that you think would benefit from being ablated, you</p> <p>13 would certainly, you know, send them for</p> <p>14 consultation with an EP cardiologist.</p> <p>15 Q. So given that you have put a cardiac</p> <p>16 ablation on -- you have assessed on the Carnes scale</p> <p>17 that the risk associated with a cardiac ablation is</p> <p>18 15 to 30 percent, why in your report did you refer</p> <p>19 to it as a high-risk procedure?</p> <p>20 A. Well, I would view that as high risk.</p> <p>21 Also, I would say I was making that assessment in an</p> <p>22 otherwise healthy person. But many people who have</p> <p>23 to get EP ablation are not otherwise healthy. So I</p> <p>24 was -- my Carnes scale was in an otherwise healthy</p> <p>25 person who needs ablation. But many of these</p>	<p style="text-align: right;">41</p> <p>1 lost. What was your specific question? I'm sorry.</p> <p>2 Say it again.</p> <p>3 Q. No problem.</p> <p>4 Does the level of risk associated with</p> <p>5 surgery or a procedure affect how physicians maybe</p> <p>6 behave when performing those procedures?</p> <p>7 A. Okay. So then I guess yes is the answer.</p> <p>8 I mean, I can't -- I think you specifically asked</p> <p>9 about EP cardiologists. I can't -- I'm not all</p> <p>10 physicians but I think yes, of course it does. I</p> <p>11 mean, whether it's physicians or whether it's</p> <p>12 anybody doing a complex procedure on a human being,</p> <p>13 it affects the way you behave. You need to</p> <p>14 concentrate. You need to have quiet in the room.</p> <p>15 You need to trust your team.</p> <p>16 Q. If a physician -- Dr. Carnes, if a</p> <p>17 physician exhibits professional behavior in email</p> <p>18 correspondence, does that mean that the physician</p> <p>19 will exhibit professional behavior when conducting</p> <p>20 high-risk surgeries or procedures?</p> <p>21 MR. BRISCHETTO: Objection. Foundation.</p> <p>22 Go ahead.</p> <p>23 THE DEPONENT: Yeah, I don't -- I don't --</p> <p>24 I mean, I don't think that's in my area of expertise</p> <p>25 as a physician-scientist but, I mean, as a human</p>

<p style="text-align: right;">42</p> <p>1 being and somebody who is interested in behavior, I 2 think people who are willing to put very 3 unprofessional statements in an email have a lower 4 threshold for engaging in unprofessional behavior in 5 an interpersonal context. I mean, I don't think my 6 research -- 7 BY MS. THOMPSON: 8 Q. Dr. Carnes, did you -- 9 A. I don't think my role as an expert 10 physician- scientist is relevant to that question. 11 Q. Dr. Carnes, did you review -- as part of 12 the -- in your report which we marked as Exhibit 1, 13 and in fact, I'm screensharing so I'm just going to 14 show you, you write, "My opinion is based on review 15 of all the documents sent to me by the law firm 16 representing Dr. Bala and included PDFs of multiple 17 emails, depositions, text messages, and handwritten 18 notes." 19 Do you recall reviewing a number of emails 20 that were produced in this case? 21 A. Yes. 22 Q. Okay. So going back to my question, do 23 you believe that a doctor who exhibits professional 24 communication in writing via email, via letter, via 25 text message means that they would never display any</p>	<p style="text-align: right;">44</p> <p>1 testified that simply because somebody communicates 2 professionally in writing does not mean that they 3 will engage in professional conduct during a 4 procedure or surgery; correct? 5 A. Right. 6 Q. Okay. If a physician exhibits 7 professional behavior and interactions with students 8 -- and when I use students I'm thinking fellows. I 9 don't know if you would consider a resident a 10 student. It kind of depends on -- 11 A. A learner. We call them learners. 12 Q. Learners. Okay. So if a physician 13 exhibits professional behavior in interactions with 14 learners, does that mean that a doctor will exhibit 15 professional behavior during high-risk surgeries or 16 procedures? 17 MR. BRISCHETTO: Continuing objection on 18 foundation. 19 Go ahead. 20 THE DEPONENT: Well, I think -- I think 21 it's correlated. I think if people are rude or -- I 22 don't know what the word -- I guess unprofessional 23 toward learners, the likelihood that they would 24 exhibit those same behaviors toward staff or other 25 individuals would be more likely. And I think people</p>
<p style="text-align: right;">43</p> <p>1 unprofessional behavior during a surgery or a 2 procedure? 3 MR. BRISCHETTO: Same objection. 4 THE DEPONENT: I guess I can't -- I'm not 5 understanding. 6 BY MS. THOMPSON: 7 Q. What part of my question do you not 8 understand and I'll try and rephrase it. 9 A. Well, isn't writing an email behavior? 10 Q. It is. 11 A. So then yes. They would engage in 12 unprofessional behavior. 13 Q. If a doctor communicates professionally in 14 writing, does that mean that they will always 15 communicate professionally during a surgery or 16 procedure? 17 A. Well, no. I mean, always -- but the 18 converse I do believe is true. If you're willing to 19 write unprofessional emails, I think the threshold 20 that you would behave unprofessionally in an 21 interpersonal interaction is much lower. 22 Q. Okay. 23 A. You don't filter your behavior in the same 24 way that people who behave professionally do. 25 Q. But the converse is true. You've already</p>	<p style="text-align: right;">45</p> <p>1 who interact respectfully with students are also 2 more likely to interact professionally with other 3 members of a team. Because in academic medicine, it 4 is kind of a spectrum. And the attending who's at 5 the top really treats all members of the team as 6 learners. It's just a mindset in academic medicine. 7 You're trying to -- that's why I think Bala kept 8 wanting the staff to learn more. She tried to do 9 that journal club. You know, she was trying to 10 treat everybody as learners. So yes, I do think in 11 academic medicine, perhaps uniquely, I think people 12 who treat official learners with respect would also 13 treat other members of the team with respect. I do 14 think that's true. 15 BY MS. THOMPSON: 16 Q. And based on what, Dr. Carnes? Is there a 17 particular study that you can refer to? What 18 methodology are you using to derive that conclusion? 19 A. Well, I will admit some of that is 20 probably from my own observation. But if you look 21 at some of the studies that have looked, for 22 example, at behavior in operating rooms, when the 23 surgeons are viewed as rude or condescending it is 24 true for multiple staff members within that OR 25 setting that have been interviewed. And I would</p>

<p style="text-align: right;">46</p> <p>1 have to go back and specifically pull those studies. 2 But there was one qualitative study interviewing 3 members in an operating room. And I would say there 4 was quite a lot of alignment on the behavior toward 5 all members of the team of the top surgeon. 6 Q. And do you recall the name of that study? 7 A. I don't. I don't. But I could get that. 8 It was -- because I looked at it when we were doing 9 our qualitative study. It was relevant. But I can. 10 If you'd like me to pull that out and send it to you 11 I can certainly do that. 12 Q. Do you recall what the focus of that study 13 was? 14 A. I think it probably was gender, to look 15 and see if male or female surgeons communicated 16 differently. But I would really have to pull it. 17 Again, as a physician- scientist, I want to make 18 sure I'm citing the methodology correctly. But they 19 did look at the behavior toward multiple members of 20 the team. 21 Q. Dr. Carnes, do you believe that if a 22 physician exhibits professional behavior in their 23 interactions with their superiors that that means 24 that they are more likely to behave professionally 25 with people that they view as subordinates?</p>	<p style="text-align: right;">48</p> <p>1 when they're performing a high-risk surgery or 2 procedure? What would you consider unprofessional 3 behavior? 4 A. Well, I mean, if we're bringing it back to 5 the case, I think some of the most, what I would 6 call unprofessional behavior was Kirsch's refusal to 7 staff Bala's -- 8 Q. Dr. Carnes, I'm sorry to interrupt. My 9 question was not specific to these facts but your 10 opinion as an expert in academic medicine, given 11 your 30-plus years of experience as a practicing 12 physician, what would you consider unprofessional 13 behavior by a surgeon or invasive proceduralist when 14 performing a high-risk procedure? 15 A. I guess it would be something that would 16 put the patient at risk doing something that was not 17 standard procedure. Yeah, doing something that was 18 not standard practice. I guess that would be. 19 Q. Would you consider yelling at staff 20 acceptable during a procedure? 21 A. Well, I think yelling is very subjective. 22 Define yelling. 23 Q. Well, why do you think yelling is 24 subjective? 25 MR. BRISCHETTO: Objection. Improper</p>
<p style="text-align: right;">47</p> <p>1 MR. BRISCHETTO: Objection. Foundation. 2 Go ahead. 3 THE DEPONENT: So you're asking me again, 4 if people are respectful to their superiors do I 5 think they would be more likely to be respectful to 6 their learners; is that the question? 7 BY MS. THOMPSON: 8 Q. Correct. 9 You're using the term "learners." My 10 question used the term subordinates. 11 A. Okay. Subordinates. 12 Q. People that they view as subordinates. 13 A. Okay. I don't think I have any -- I mean, 14 except for that OR study I don't -- I'm not aware of 15 any studies that would be relevant to answer that 16 question. I'm trying to think. 17 Q. So is your response that you don't know? 18 A. I guess it would be, yeah, I don't know. 19 I mean, I could look for you but I don't -- I'm not 20 aware of studies that actually correlated behavior 21 to your superiors to behavior to your subordinates 22 other than that potentially relevant OR study. So 23 yeah, I guess I don't. 24 Q. What would you consider unprofessional 25 behavior by a surgeon or an invasive proceduralist</p>	<p style="text-align: right;">49</p> <p>1 foundation. Vague and ambiguous. 2 Go ahead. 3 THE DEPONENT: Yes, I agree that's vague 4 and ambiguous because as I think I pointed out many 5 times, and if you look at the figure, I think that 6 figure that I drew really shows it the most. Any 7 behavior of an individual is filtered through those 8 stereotypes. So I could say something and people 9 would say, oh, Carnes was yelling at me. And 10 Brischetto could say the same thing and they would 11 say, oh, he really has command of the situation. So 12 yelling is very subjective. 13 BY MS. THOMPSON: 14 Q. Based on a whole host of things, separate 15 from how we filter stereotypes, separate from our 16 implicit biases; correct? 17 A. I'm sorry, what about separate from it? 18 MS. THOMPSON: Ms. Byrd, could you read 19 back my question, please? 20 THE REPORTER: Stand by. 21 (WHEREUPON, the record was played back.) 22 BY MS. THOMPSON: 23 Q. Dr. Carnes, you are referring to the 24 figure in your report and I think that you are 25 referring to --</p>

<p>50</p> <p>1 A. It should be --</p> <p>2 Q. -- the schematic. I think it was table --</p> <p>3 A. Yes. Yes. Because I think that really</p> <p>4 summarizes.</p> <p>5 Q. Okay. But separate from how we filter</p> <p>6 information -- I'm going to dumb this down for</p> <p>7 myself. Okay?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. Reading through your report, I think your</p> <p>10 opinion is, and studies have shown, that people</p> <p>11 perceive behavior through various lenses; right?</p> <p>12 A. Mm-hmm.</p> <p>13 Q. There are various filters. Is that</p> <p>14 correct?</p> <p>15 A. Yes. And they don't realize they're doing</p> <p>16 it even when it contradicts their own conscious</p> <p>17 beliefs.</p> <p>18 Q. Right. It can be completely</p> <p>19 unintentional.</p> <p>20 A. Yes.</p> <p>21 Q. So your report talks about stereotypes.</p> <p>22 Your report talks about implicit biases. Would you</p> <p>23 agree that in addition to those things resulting in</p> <p>24 the subjectivity of whether or not someone was</p> <p>25 yelling that there are other factors that would</p>	<p>52</p> <p>1 it often put women in a bind because they knew they</p> <p>2 were in a situation where they had to engage in</p> <p>3 directive communication but they had this sort of,</p> <p>4 you know, gendered -- gendered issues, gendered</p> <p>5 norms which were -- they were afraid of backlash.</p> <p>6 That if they engaged in this directive communication</p> <p>7 style they'd be considered a bitch. And the</p> <p>8 literature supports this exact same, although we</p> <p>9 looked at it, and I'm speaking in a medical setting</p> <p>10 but research supports that.</p> <p>11 Q. Do you believe that using demeaning terms</p> <p>12 during a high-risk procedure or surgery is</p> <p>13 acceptable conduct?</p> <p>14 A. What would be a demeaning term?</p> <p>15 Q. What do you think would be a demeaning</p> <p>16 term?</p> <p>17 MR. BRISCHETTO: Objection. Vague.</p> <p>18 Ambiguous.</p> <p>19 THE DEPONENT: Well, I'm asking you.</p> <p>20 Yeah, I'm asking you. I don't know what you would</p> <p>21 mean by a demeaning term.</p> <p>22 BY MS. THOMPSON:</p> <p>23 Q. Dr. Carnes, what are examples of demeaning</p> <p>24 terms that could be used during a procedure or a</p> <p>25 surgery?</p>
<p>51</p> <p>1 impact the subjective measurement of yelling? I</p> <p>2 know this question is confusing. What I'm trying to</p> <p>3 get to is tone. The tone of the words. That can</p> <p>4 impact whether or not someone perceives someone as</p> <p>5 yelling; correct?</p> <p>6 A. Well, again, tone is a very gendered</p> <p>7 thing. In my own research, I did one of the first</p> <p>8 studies to look at how gender affected male and</p> <p>9 female internal medicine residents differently. How</p> <p>10 it impacted their training. And the issue of tone</p> <p>11 came up all the time. One of the male residents</p> <p>12 said, "I've seen men say things to nurses in just</p> <p>13 terrible tones but if a woman did that." I mean,</p> <p>14 that was an exact quote. So again, I think this</p> <p>15 tone thing is very, very gendered.</p> <p>16 Q. Okay. How about would it matter at what</p> <p>17 stage the procedure was, whether or not it was at</p> <p>18 the beginning of a procedure, in the middle or the</p> <p>19 end?</p> <p>20 A. I don't think so. I think -- I will say</p> <p>21 that if by tone you mean a directive communication</p> <p>22 style -- so there is research in the medical</p> <p>23 literature showing that in a time-sensitive, task-</p> <p>24 oriented setting, directive communication in a</p> <p>25 medical team is the most effective. And so we found</p>	<p>53</p> <p>1 MR. BRISCHETTO: Same objection.</p> <p>2 Go ahead.</p> <p>3 THE DEPONENT: I don't know. You've</p> <p>4 already established that I have never been in an EP</p> <p>5 procedure or an OR so I'll just have to say I don't</p> <p>6 know.</p> <p>7 I guess it's like jazz. If I saw it I'd</p> <p>8 recognize it because there were demeaning terms that</p> <p>9 were used even in some of the materials I reviews</p> <p>10 but at this point in time a demeaning term does not</p> <p>11 come to mind.</p> <p>12 BY MS. THOMPSON:</p> <p>13 Q. Do you think making other staff members --</p> <p>14 you are present in a procedure or surgery making</p> <p>15 them cry is acceptable behavior by a physician?</p> <p>16 MR. BRISCHETTO: Objection. Calls for</p> <p>17 speculation.</p> <p>18 Go ahead.</p> <p>19 THE DEPONENT: Yes. I would say that does</p> <p>20 call for speculation. I mean, every -- every</p> <p>21 situation is different. You know, if you had an</p> <p>22 incompetent person and you have a patient that</p> <p>23 you're responsible for doing a high-risk procedure</p> <p>24 and they're putting, for example, the wrong dose of</p> <p>25 heparin, which is potentially lethal and you say,</p>

<p>54</p> <p>1 you know, what the hell are you doing and they cry, 2 would that be inappropriate? I'm not sure it would 3 be. So it is highly speculative. I can't answer 4 that. 5 BY MS. THOMPSON: 6 Q. Is your testimony that it depends on the 7 context? 8 A. I guess that would be it. Yeah. 9 Q. Do you believe that male and female 10 physicians should be held to different standards 11 when evaluating their competence? 12 A. No. 13 Q. Do you believe that male and female 14 physicians should be held to different standards 15 when evaluating their professionalism? 16 A. You see, the professionalism thing is 17 something that actually has recently come under 18 assault even within academic medicine because there 19 was this big push for professionalism about 10-15 20 years ago. And now people are kind of realizing 21 that, you know, the kind of stereotypic 22 professionalism that physicians were viewing was 23 very much, you know, heterosexual, White, male, 24 Christian and that it actually sometimes works 25 against historically minoritized groups. So I'm not</p>	<p>56</p> <p>1 cleanliness of the clinic. Okay? And we found our 2 Black physicians were consistently being rated lower 3 for cleanliness of the clinic even though the 4 patients were in the exact same room. So people 5 were getting merit raises based on that. So you 6 know, it just -- I can't answer that. 7 Q. Dr. Carnes, if a physician is rude to 8 attending staff should supervisors take into account 9 the sex of the physician when deciding how to 10 respond to the report? 11 A. I think rude -- rude is subjective, too. 12 And in fact, I think you saw that. You know, some 13 people said the communication was great. Other 14 people said it was rude. Because you just can never 15 take out the fact that you're viewing those 16 individual behaviors through these implicit 17 assumptions, through these stereotypic assumptions. 18 Whether it's race, whether it's Asian-Indian 19 American assumptions. Whether it's gender 20 assumptions. And so what is rude? You know, 21 there's that joke, you know, if a woman puts 22 somebody on hold they're being rude. You know, if a 23 man hangs up, they're rude. It's just a very 24 different perception of the exact same behavior. 25 Again, if you look at that figure where I really did</p>
<p>55</p> <p>1 going to say anything about professionalism related 2 to its use in the abstract. 3 Q. Dr. Carnes, what is your definition of 4 professionalism in academic medicine? 5 A. I don't have one. I'd have to give that 6 thought. I've spent a lot of time thinking about it. 7 I've searched the literature on it because of what I 8 just said. I don't have a specific definition of 9 it. 10 Q. If you derived a definition, do you 11 believe that male and female physicians should be 12 judged by different standards of professionalism? 13 MR. BRISCHETTO: Objection. Calls for 14 speculation. 15 Go ahead. 16 THE DEPONENT: Yeah, it calls for a lot of 17 -- I mean, I can give you a specific example. 18 BY MS. THOMPSON: 19 Q. I'm not asking for a specific example. 20 A. Okay. Well -- 21 Q. My question asked -- 22 A. Well, then I can't answer because again, 23 everything is dependent on the situation and your 24 evaluative standards. So you know, we had a patient 25 satisfaction survey that included evaluation of the</p>	<p>57</p> <p>1 try to dumb it down, the exact same behavior not 2 only is interpreted differently but has very 3 different consequences because for one group it will 4 be given dispositional attribution that is about 5 them. They're rude people. They're unprofessional. 6 The others will be given situational attribution. 7 Oh, it was a hard case. It snowed that day. You 8 know, they couldn't get the right equipment. So 9 it's -- 10 Q. Dr. Carnes, my question -- 11 A. Rudeness is subjective. 12 Q. Understood. 13 A. I'm sure you -- 14 Q. Assuming -- 15 A. -- face that in your own field since a lot 16 of this research comes from the legal profession. 17 Q. For the sake of this question, assuming 18 what you say is true, which is whether or not 19 something is rude is subjective and viewed through 20 the lens of implicit biases and stereotypes and the 21 like, do you believe supervisors should take into 22 account the sex of a physician when deciding how to 23 respond? 24 A. Consciously. Consciously take. I don't 25 believe they should consciously take it into</p>

<p>58</p> <p>1 account. I absolutely believe they unconsciously 2 do. And that's where the institution needs to have 3 come in place in the first place and explain to 4 people how this might happen and give the person 5 place in a situation where they're going to be sort 6 of victimized by this. Sort of the external 7 conferral of status. 8 Q. Dr. Carnes, should supervisors be more 9 suspicious of accusations of unprofessional conduct 10 lodged against female physicians than those lodged 11 against male physicians? Based on what -- 12 A. Yes. 13 Q. -- you just said, do you believe that 14 supervisors should be more suspicious of accusations 15 of unprofessional conduct lodged against female 16 doctors? 17 A. Suspicious is an odd word. But yes, I 18 believe they should -- when they receive these kinds 19 of -- they don't fit, you know, their communication 20 styles. As soon as you -- those are like red flag 21 words. As soon as a supervisor hears that they 22 should begin to look at a systems issue. Are there 23 things going on here that we need to be aware of 24 from a systems issue, systems perspective? 25 Q. But your testimony is that if a supervisor</p>	<p>60</p> <p>1 Q. Dr. Carnes, have you ever been accused of 2 treating other doctors poorly? 3 A. Not that I'm aware of. 4 Q. Have you ever been accused of treating 5 nurses poorly? 6 A. Not that I'm aware of. 7 Q. Have you ever been accused of treating 8 students or learners poorly? 9 A. Not that I'm aware of. 10 Q. Have you ever been accused of engaging in 11 sex discrimination? 12 A. I don't -- no. 13 Q. I'm sorry; what was your answer? 14 A. No. I mean, not that I'm aware of. No. 15 Q. Have you ever been accused of engaging in 16 racial discrimination? 17 A. Not that I'm aware of. 18 Q. Have you ever been accused of engaging in 19 ethnic discrimination? 20 A. Not that I'm aware of. 21 Q. Have you ever felt that you experienced 22 discrimination during your medical training or 23 medical career? 24 A. Well, I became very interested in studying 25 the issue, again, because there were so few women.</p>
<p>59</p> <p>1 receives any complaint about a doctor that the 2 supervisor should immediately be thinking about 3 gender as a potential influence? 4 MR. BRISCHETTO: Objection. Misstates the 5 testimony. Improper foundation. 6 Go ahead. 7 THE DEPONENT: I think gender, along with 8 other things, along with previous issues that a 9 supervisor might have had, organizational culture in 10 which the occurrence is happening. What is the 11 chain of command? You know, there were multiple 12 breaches of chain of command I think in this 13 situation. So I think, again, a systems issue. 14 Looking for why did this behavior happen and 15 engaging good HR practices. Looking at, you know, 16 OHSU has all these statements about what a great 17 culture they have for learning and they value 18 diversity and all this. So I think, you know, if 19 you get a complaint, bring it back to those kinds of 20 institutional principles and saying, you know, does 21 this align with what we say we're doing? What's 22 happening? But yes, I think gender is part of it. 23 Race is part of it. The individual culture in the 24 unit is part of it. 25 BY MS. THOMPSON:</p>	<p>61</p> <p>1 I guess, I mean, there were, for example, three 2 gender pay equity exercises that the university 3 engaged in while I was on the faculty and all three 4 times it was determined that I was paid less than my 5 male counterparts and my salary was raised. So I 6 guess that would be data you can, I guess, conclude 7 from that. 8 Q. Any other -- any other incidents where you 9 felt that you were discriminated against as a woman 10 during your medical training or medical career? 11 A. I'm not sure it's relevant. I can't think 12 of any right now. 13 Q. Do you recall -- 14 A. But the gender pay equity would be data. 15 Q. Okay. Do you recall during your third 16 year of medical school being subjected to explicitly 17 sexist statements by your surgery clerkship 18 director? 19 A. Oh, yes, I do. Yeah. That was a long 20 time ago before I studied it or was even aware of 21 it. And remember, this was only two years or three 22 years after Title IX. And yes, I do. He said I 23 don't think women should be doctors. 24 Q. Was there anything else that was said to 25 you by this surgery clerkship director that you</p>

<p style="text-align: right;">62</p> <p>1 found to be sexist?</p> <p>2 A. You know, I'm sure there were because, I</p> <p>3 mean, this was many years ago. Again, only two or</p> <p>4 three years after Title IX, so there were many</p> <p>5 explicit statements that were made. You know, it</p> <p>6 was -- this was back in a time when, you know, women</p> <p>7 basketball players were only allowed three dribbles</p> <p>8 so I'm not sure you can take anything that happened</p> <p>9 back then and make it relevant now. But yeah, there</p> <p>10 was a lot of explicit bias against women then. It</p> <p>11 was really overt sexism, not the more covert sexism</p> <p>12 that came later.</p> <p>13 Q. And I don't want to put words in your</p> <p>14 mouth but I think you were starting to share -- is</p> <p>15 that -- was your experience as a medical student one</p> <p>16 of the reasons that you became interested in gender</p> <p>17 issues in academic medicine?</p> <p>18 A. No. Not so much in medical school I would</p> <p>19 say because, you know, again, you just expected it</p> <p>20 back then. You have to realize it was just a few</p> <p>21 years after Title IX was passed. It was very</p> <p>22 different. But I think what really sparked my</p> <p>23 interest as a physician-scientist was when I got</p> <p>24 tenure. Because I had gotten tenure based on very</p> <p>25 different research. When I got tenure, and I was</p>	<p style="text-align: right;">64</p> <p>1 everything count twice I turned it into an editorial</p> <p>2 and submitted it to JAMA.</p> <p>3 Q. Okay. And so on my screen you wrote,</p> <p>4 "When I was a third-year medical student, my surgery</p> <p>5 clerkship director told me on my first day, 'It</p> <p>6 won't affect your grade but I want you to know that</p> <p>7 I don't think women should be doctors.'"</p> <p>8 A. Yeah. That's the quote I mentioned. "I</p> <p>9 don't think women should be doctors." Right?</p> <p>10 Q. All right. And then you further write</p> <p>11 that you remember a small group discussion leader in</p> <p>12 psychiatry telling you that you were "too nice to go</p> <p>13 into academic medicine."</p> <p>14 Did I read that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. And you wrote that that struck you as odd.</p> <p>17 And you wrote, "Don't we want nice people in</p> <p>18 academic medicine?"</p> <p>19 A. Yes. And then I went on to say I'd like</p> <p>20 to let him know you can be nice and go into academic</p> <p>21 medicine. You just have to move to the Midwest.</p> <p>22 Q. Meaning what?</p> <p>23 A. Well, there's Midwest nice here. There's</p> <p>24 a lot of nice people here.</p> <p>25 Q. Is your -- are you making a statement that</p>
<p style="text-align: right;">63</p> <p>1 the only tenured woman MD in the Department of</p> <p>2 Medicine which was the largest department in the</p> <p>3 university, and that really intrigued me. And</p> <p>4 that's when I went to get the masters in</p> <p>5 epidemiology. I wrote an NIH grant for sort of a</p> <p>6 career switch to allow me to actually study academic</p> <p>7 medicine.</p> <p>8 MS. THOMPSON: Okay. I want to mark</p> <p>9 document B as Exhibit 2.</p> <p>10 (WHEREUPON, Exhibit 2 was marked for</p> <p>11 identification.)</p> <p>12 MS. THOMPSON: And I'm going to share that</p> <p>13 on my screen.</p> <p>14 BY MS. THOMPSON:</p> <p>15 Q. Dr. Carnes, I am sharing on my screen what</p> <p>16 we have marked as Exhibit 2, a February 8, 2012,</p> <p>17 article entitled "What would Patsy Mink think?"</p> <p>18 Are you familiar with this document?</p> <p>19 A. Yes.</p> <p>20 Q. What is it?</p> <p>21 A. It's a -- well, I had been invited to give</p> <p>22 the annual lecture to the medical students who were</p> <p>23 being inducted into AOA, which is a medical honor</p> <p>24 society. And I gave this talk. And because my</p> <p>25 advice in academic medicine was always to make</p>	<p style="text-align: right;">65</p> <p>1 there aren't nice people on the East Coast or the</p> <p>2 West Coast?</p> <p>3 A. No. But I did go -- I was in Buffalo, New</p> <p>4 York, so there are -- oftentimes humor can use</p> <p>5 assumptions. So people in the Midwest do have</p> <p>6 assumptions about people in the east. So when I</p> <p>7 would make this statement to a Midwest audience they</p> <p>8 invariably laughed because they have assumptions</p> <p>9 about people who live in New York even though the</p> <p>10 people in New York, the people on the East Coast</p> <p>11 don't actually claim Buffalo. But in the Midwest,</p> <p>12 when you tell them you're from Buffalo, they think</p> <p>13 you're from the east. But the east doesn't claim</p> <p>14 Buffalo.</p> <p>15 Q. Okay. A statement by -- I think, yeah,</p> <p>16 when you were a third-year medical student, this was</p> <p>17 a surgery clerkship director. Did this statement in</p> <p>18 any way dissuade you from going into surgery?</p> <p>19 A. Wow, that's a long time ago. I don't know</p> <p>20 if it was so much that I was dissuaded from surgery</p> <p>21 is that I fell in love with internal medicine. I</p> <p>22 mean, it seemed to me the internists were the</p> <p>23 smartest people in the whole medical center. Of</p> <p>24 course, once I became one I realized we didn't know</p> <p>25 everything but as a student it seemed to me that the</p>

<p>66</p> <p>1 internists knew everything. So I loved internal 2 medicine. 3 Q. Did your experience with your surgery 4 clerkship director, did that affect your 5 expectations about how surgeons behave? 6 A. I can't -- I don't think so. I mean, 7 because of the role that I had at the university, I 8 advised shares of surgery, surgery faculty. I 9 really had wonderful working relationships with not 10 only pretty much all the specialties and 11 subspecialties within the school of medicine and 12 public health but across the university as well. So 13 I don't think I prejudiced surgeons. I don't think 14 I did. 15 Q. Okay. 16 A. At least not consciously. 17 Q. Dr. Carnes, have you ever lodged a formal 18 or informal complaint for being subjected to any 19 form of harassment or discrimination based on your 20 gender? 21 A. I don't think so. Not that I remember. 22 Q. Is there anything I could do to refresh 23 your memory as to whether or not you've ever made a 24 formal or informal complaint about being subjected 25 to harassment or discrimination because of your</p>	<p>68</p> <p>1 So obviously, I was aware of it. But 2 again, because I think I was interested in it from a 3 scientific perspective it didn't -- it allowed me to 4 have that distance so that I didn't really take -- I 5 saw what it was. I saw the research behind it and 6 didn't take it personally. I knew the people in this 7 room had no personal vendetta against me. They were 8 just, you know, victims of a society that envisioned 9 all physicians and scientists in the masculine 10 gender. 11 Q. Have you ever been party to a lawsuit, Dr. 12 Carnes? 13 A. Oh, yes. As an expert or being sued? 14 Q. No. Either filing or a lawsuit yourself 15 or having a lawsuit filed against you? 16 A. Oh, no, no. No. I did participate as an 17 expert witness for my geriatrics expertise I think 18 maybe twice. And then this one. 19 Q. Okay. In your CV you list one of your 20 major research interests as "increasing the 21 diversity of leadership in academic medicine, 22 science, and engineering, as a means to affect 23 institutional transformation." 24 Is that correct? 25 A. That's correct.</p>
<p>67</p> <p>1 gender? 2 A. Maybe you have materials I don't but I 3 don't think I've ever -- I mean, I may have 4 complained informally. I may have grumbled. Don't 5 we all grumble? But I don't remember ever lodging a 6 formal complaint. 7 Q. Can you describe your informal complaints 8 of gender discrimination or harassment that you felt 9 you were subjected to? 10 A. Well, you know, I've always tried to turn 11 that grumbling into research and scholarship. So it 12 usually wound up being a good thing. I was just 13 reminded of one particular. When I was the acting 14 division head of geriatrics, I was the only woman 15 division head in the Department of Medicine at that 16 time. I think there were 13 divisions. And we had 17 a department meeting with all the division heads. 18 And one of the division heads kept referring to all 19 his faculty as he. Him, he. So when I spoke I just 20 used the female gender pronoun. I said the same 21 thing he did but just referred to she and her. So I 22 obviously was aware that there was bias going on. 23 But actually, at the end of the meeting he came up 24 to me and he said, "God, Molly, you really made us 25 all look like assholes."</p>	<p>69</p> <p>1 Q. What do you mean by increasing diversity 2 of leadership? 3 A. Well, I would like to see a diversity of 4 leaders of all kinds. So I mean, even disciplinary 5 diversity. You know, there was a time when both our 6 chancellor and our provost were engineers. I 7 remember thinking that's probably not healthy. But 8 I would say my particular slice of that has been 9 gender and race ethnicity. That has been my 10 particular slice in the diversity issue. 11 Q. What do you mean by institutional 12 transformation? 13 A. So that's been defined. There was a whole 14 series of papers on institutional transformation of 15 academic institutions. It came out probably 20 16 years ago. And it's -- a transformation is where at 17 every level of the organization, from policy all the 18 way down to individual behaviors there are changes. 19 And I always as a physician have used smoking as a 20 metaphor for institutional transformation because 21 nobody argues that our society has witnessed an 22 institutional transformation when it comes to 23 smoking. 24 Again, when I went to medical school back 25 in the dark ages, and the students don't even</p>

<p style="text-align: right;">70</p> <p>1 believe this now, but the professors smoked in the 2 classroom. And when I was an intern, the nurses in 3 the intensive care unit had a little room where they 4 would leave lit cigarettes while they went to, you 5 know, adjust oxygen. Now that would be unthinkable. 6 And that's because all levels of our society have 7 seen changes. From the individuals stopping smoking 8 -- we have the lowest rate of smoking we've seen 9 in generations in this country, all the way up to 10 policy. So that's what I mean by institutional 11 transformation. All you have to do is think of 12 smoking.</p> <p>13 Q. Dr. Carnes, in the last 20-plus years your 14 work has been devoted almost exclusively to 15 increasing the number of women physicians in 16 positions where they're underrepresented; correct?</p> <p>17 A. Yes.</p> <p>18 Q. And similarly, in the last 20-plus years 19 your work has been devoted to increasing the number 20 of racial or ethnically underrepresented doctors --</p> <p>21 A. Yes.</p> <p>22 Q. -- in medicine; correct?</p> <p>23 A. Yes.</p> <p>24 Q. Do you believe that you've been an 25 effective advocate for women in the medical field?</p>	<p style="text-align: right;">72</p> <p>1 a kind of in-depth understanding of how oftentimes 2 the members, which included, you know, plant 3 pathologists and botanists. I had an understanding 4 of how to help them see research and scholarship 5 that physicians were engaged in. So I often 6 consulted when anybody, male or female, was denied 7 tenure.</p> <p>8 Q. My question is a little different. 9 When you hear that a female physician has 10 been denied tenure or a promotion or their 11 employment has been terminated, do you assume that 12 she was probably subjected to discrimination based 13 on gender?</p> <p>14 A. No. I would never make that. I'm a 15 scientist. I would have to see the data. You know, 16 maybe she didn't publish. Maybe, you know, she was 17 unable to obtain grants. But I would say that I 18 advised as many male tenure turndowns in the medical 19 school as I did female.</p> <p>20 Q. Dr. Carnes, do you agree that both male 21 and female physicians sometimes engage in rude or 22 unprofessional conduct?</p> <p>23 A. I think anybody sometimes has a bad day.</p> <p>24 Q. Do you believe that some complaints about 25 female doctors are not the result of gender bias?</p>
<p style="text-align: right;">71</p> <p>1 A. Yes.</p> <p>2 Q. Do you believe you've been an effective 3 advocate for racial or ethnic -- I hate using the 4 term "minority," but I'm going to use it here.</p> <p>5 A. Yeah. I think, I mean, the terms keep 6 changing but I think minoritized groups is sort of 7 -- because women are not a minority but we're 8 certainly a minoritized group.</p> <p>9 Q. But you've certainly --</p> <p>10 A. I've been less so. I've been certainly 11 less effective in advocating for advancing racial 12 and ethnic minorities. And of course, the 13 intersectionality of race and gender is so complex. 14 It's just -- but I did all I could. Yeah, I have to 15 leave it for others to continue.</p> <p>16 Q. When you hear that a female physician has 17 been denied tenure or a promotion or has been 18 terminated from their employment, do you assume that 19 she was probably subjected to gender discrimination?</p> <p>20 A. Well, I think that's a pretty broad 21 generalization. Mostly what happened was if a chair 22 -- if any chair had a faculty member turned down for 23 tenure I became sort of the institutional advisor on 24 it because I had served as chair of the Biological 25 Sciences Tenure Committee for the campus. So I had</p>	<p style="text-align: right;">73</p> <p>1 A. Of course.</p> <p>2 Q. Do you believe that some complaints about 3 non- minoritized physicians are not the result of 4 racial or ethnic bias?</p> <p>5 A. Of course.</p> <p>6 Q. Have you ever raised concerns or made a 7 complaint about any colleague with whom you have 8 worked related to their professionalism, however you 9 define that?</p> <p>10 A. I don't think so. No.</p> <p>11 Q. In your 30-plus years you have never 12 raised any concern about a colleague being 13 unprofessional; is that your testimony?</p> <p>14 A. Not that I recall.</p> <p>15 Q. Is it your testimony that in your CV, you 16 know, it is very impressive how many students you 17 have mentored over the years. I think you were 18 mentoring undergraduate and graduate and medical 19 students; did I get that correct?</p> <p>20 A. And residents, fellows. I'm on the Mentor 21 Committee of many of the junior faculty. Yeah.</p> <p>22 Q. Okay. Have you ever had concerns about 23 any of their professionalism?</p> <p>24 MR. BRISCHETTO: Objection. Vague.</p> <p>25 Go ahead.</p>

<p style="text-align: right;">74</p> <p>1 THE DEPONENT: I don't -- I don't -- I 2 don't recall. I don't think so. And I'm not sure 3 what -- if you just told me what you were trying to 4 establish maybe I could be more helpful. 5 So, I mean, I chaired -- when I was vice 6 chair for faculty development at the Department of 7 Medicine, I chaired the annual review of all the 8 assistant professors. And sometimes at that review 9 the division head would note that one of their 10 faculty members had had complaints made against 11 them. And we would come up as a group with kind of 12 a professional -- a plan to help either further 13 evaluate or address that. You know. So I mean, 14 that's the best I can tell you. That I was often 15 involved in the review of faculty. It wasn't 16 personally toward me. It was at a department level. 17 BY MS. THOMPSON: 18 Q. And at the department level when you were 19 helping maybe direct supervisors who were receiving 20 reports of unprofessionalism, I think what you said 21 was you developed a plan to address those issues; 22 correct? 23 A. Yes. We would make recommendations to the 24 division head -- excuse me, the division head. 25 Q. Would you agree that it's important for</p>	<p style="text-align: right;">76</p> <p>1 engaging in unprofessional conduct that that conduct 2 should be addressed? 3 MR. BRISCHETTO: Objection. Vague. 4 Go ahead. 5 THE DEPONENT: Yeah, again, 6 unprofessional. The specific behavior. If the 7 specific behavior was in any way adversely affecting 8 patient care, the learning environment, the culture 9 of the division. If the behavior was adversely 10 affecting that, yes, we would make it, advice of the 11 division head that it needed to be addressed. So 12 but again, I think a lot of what you're asking is in 13 the clinical realm. And my expertise was more in 14 the research realm. So I was more involved in 15 advising people how they could publish, how they 16 could conduct research, how they could identify a 17 research question to follow. I think that was more 18 how I was seen as being helpful. If there was 19 clinical issues, the whole health -- the UW health 20 side, the hospital side would be involved. I 21 probably would not be involved in that. 22 BY MS. THOMPSON: 23 Q. But you are a physician? 24 A. Yes. 25 Q. And so why do you think in a clinical</p>
<p style="text-align: right;">75</p> <p>1 supervisors to address concerns about 2 professionalism? 3 MR. BRISCHETTO: Objection. Vague. 4 Go ahead. 5 THE DEPONENT: Yeah, again, 6 professionalism, hard. But it would be specific 7 behaviors. You know, if somebody -- if they were 8 showing up late. If they were, I don't know, I 9 guess, yeah, let's take that. They were 10 consistently showing up late. 11 BY MS. THOMPSON: 12 Q. Okay. 13 A. So then that would be a specific behavior 14 and we would, you know, say, well, here's what you 15 need to do to address that. 16 Q. In your 30-plus years of experience in 17 academic medicine, in your role, and you have 18 multiple leadership positions in academic medicine; 19 correct? 20 A. Yes. 21 Q. Did you ever receive reports related to 22 doctors, residents, fellows, being unprofessional in 23 their communication with staff? 24 A. Not direct, no. I guess no. 25 Q. Would you agree that if a physician was</p>	<p style="text-align: right;">77</p> <p>1 setting it would be important to immediately address 2 any unprofessional behaviors? 3 MR. BRISCHETTO: Objection. Misstates the 4 testimony. 5 Go ahead. 6 THE DEPONENT: Well, I was just -- you 7 asked me if I was involved. And I was trying to 8 explain that -- 9 BY MS. THOMPSON: 10 Q. I understand. I'm asking -- 11 A. -- I was involved in the more academic 12 side. If there were complaints clinically -- 13 because you had asked if I was involved. That chain 14 of command -- there were other experts there. There 15 were ombuds people. There were HR people. There 16 were other people who would probably be tapped into 17 if there were clinical issues. It would not 18 generally have been me. 19 Q. Understood. And I'm asking a different 20 question. 21 A. Okay. What was that question? 22 Q. I believe you testified that it would be 23 important to address behaviors that impacted patient 24 care. 25 A. Yes.</p>

<p style="text-align: right;">78</p> <p>1 Q. That's a clinical issue; correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So on the clinical side, why is it</p> <p>4 important -- is it important in your opinion to</p> <p>5 address unprofessional behavior that might impact</p> <p>6 patient care?</p> <p>7 MR. BRISCHETTO: Objection.</p> <p>8 THE DEPONENT: Well, unprofessional again</p> <p>9 is in there. But I would say behavior, yes. Like</p> <p>10 showing up late. You know, throwing instruments</p> <p>11 across the room. Yes, those behaviors would need to</p> <p>12 be addressed. I don't think anybody would argue</p> <p>13 that.</p> <p>14 THE REPORTER: Mr. Brischetto, was that an</p> <p>15 objection that I heard?</p> <p>16 MR. BRISCHETTO: It was. Objection.</p> <p>17 Foundation. Vague. Ambiguous. Thank you.</p> <p>18 THE REPORTER: Thank you.</p> <p>19 BY MS. THOMPSON:</p> <p>20 Q. Dr. Carnes, would you agree that patient</p> <p>21 care teams need to communicate effectively with one</p> <p>22 another to provide good patient care?</p> <p>23 A. Yes. There's a lot of research showing</p> <p>24 that from Amy Edmondson, from the group that's</p> <p>25 looked at team communication. Yes.</p>	<p style="text-align: right;">80</p> <p>1 Q. And to participate in processes of self-</p> <p>2 regulation, including remediation and discipline of</p> <p>3 members who have not met professional standards?</p> <p>4 MR. BRISCHETTO: Objection. Vague.</p> <p>5 Go ahead.</p> <p>6 THE DEPONENT: Yeah. Again, it gets</p> <p>7 difficult because the professional standards have a</p> <p>8 lot of bias built into them. And academic medicine</p> <p>9 is increasingly aware of this and, you know, the</p> <p>10 AAMC is considering like how do -- how do you</p> <p>11 evaluate physicians? But I guess if there is an</p> <p>12 agreed upon standard that is viewed by being</p> <p>13 relatively free of bias that can be applied and</p> <p>14 everybody agrees it's a good measure of</p> <p>15 professionalism, yes, I think that if somebody</p> <p>16 violates that then they should be reprimanded. I</p> <p>17 would agree with that then.</p> <p>18 BY MS. THOMPSON:</p> <p>19 Q. Would you also agree that as members of</p> <p>20 the medical profession there's an obligation to</p> <p>21 engage in internal assessment of one's own</p> <p>22 professionalism?</p> <p>23 A. Yes. And I actually think physicians --</p> <p>24 and this has been written -- actually, lawyers have</p> <p>25 written about this, how the system of training and</p>
<p style="text-align: right;">79</p> <p>1 Q. Okay.</p> <p>2 MS. THOMPSON: I would like to take a</p> <p>3 comfort break again. So, and we've been going for</p> <p>4 almost two hours, so maybe we can take 10 minutes if</p> <p>5 that's okay and we'll come back on.</p> <p>6 THE DEPONENT: All right.</p> <p>7 MR. BRISCHETTO: That's okay.</p> <p>8 MS. THOMPSON: Okay.</p> <p>9 THE VIDEOGRAPHER: Please stand by. The</p> <p>10 time is 11:48 a.m., and we are off the record.</p> <p>11 (WHEREUPON, a recess was taken.)</p> <p>12 THE VIDEOGRAPHER: We are on the record.</p> <p>13 The time is 11:57 a.m.</p> <p>14 You may now proceed.</p> <p>15 MS. THOMPSON: Thank you.</p> <p>16 BY MS. THOMPSON:</p> <p>17 Q. Dr. Carnes, would you agree that as</p> <p>18 members of the medical profession, that doctors</p> <p>19 should be expected to work collaboratively to</p> <p>20 maximize patient care?</p> <p>21 A. Yes.</p> <p>22 Q. Would you agree that members of the</p> <p>23 medical profession should be expected to be</p> <p>24 respectful to one another?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">81</p> <p>1 self-evaluation of physicians is a model of what</p> <p>2 might be adapted in other professions because that</p> <p>3 professional review is embedded in physician</p> <p>4 practice. It's very much part of being a physician</p> <p>5 and in training.</p> <p>6 Q. And as part of that, that external review,</p> <p>7 or self-assessment, oftentimes -- I don't want to</p> <p>8 get too far into the lane of peer review and all of</p> <p>9 that, but in the medical profession people sit down.</p> <p>10 They talk about cases. That is how we improve health</p> <p>11 care; correct?</p> <p>12 A. Yep. Absolutely. Yep.</p> <p>13 Q. Right.</p> <p>14 A. Yep. Root cause analysis and yep, yep.</p> <p>15 Q. And as part of that, as an individual</p> <p>16 physician, would you agree that individual</p> <p>17 physicians have an obligation to accept external</p> <p>18 scrutiny of their professional performance?</p> <p>19 MR. BRISCHETTO: Objection. Vague.</p> <p>20 Go ahead.</p> <p>21 THE DEPONENT: Again, if there is an</p> <p>22 agreed upon standard that is felt to be unbiased and</p> <p>23 is applied across the board.</p> <p>24 BY MS. THOMPSON:</p> <p>25 Q. And so Dr. Carnes, is your testimony then</p>

<p style="text-align: right;">82</p> <p>1 that you do not believe that existing professional 2 standards that are agreed upon by medical 3 professionals that people should not be held to 4 those standards? 5 MR. BRISCHETTO: Assumes facts not in 6 evidence. 7 Go ahead. 8 THE DEPONENT: Yeah. I think it's a 9 moving target right now. I think -- I think, in 10 fact, I was so interested in this I surveyed 11 informally just my contacts through my research. I 12 have a lot of contacts at other universities and I 13 just asked them, you know, if your physician is -- 14 if a complaint is lodged against one of your 15 physicians, say a patient safety, PSN, if something 16 is lodged, what is the process for evaluating that 17 physician? It was all over the map. So -- 18 BY MS. THOMPSON: 19 Q. Dr. Carnes, I don't mean to interrupt you 20 but I do want to be respectful of your time. 21 A. Yes. 22 Q. I have a limited amount of time. 23 A. Yes. I'm just trying to say that there 24 isn't an agreed upon standard. 25 Q. Are you -- so your testimony is there are</p>	<p style="text-align: right;">84</p> <p>1 or test to any of the persons involved in this case 2 -- 3 A. No. 4 Q. -- to assess their attitudes towards 5 women? 6 A. No. 7 Q. Did you administer any survey or test to 8 any of the persons involved in this case to assess 9 whether gender -- excuse me. Let me rephrase that. 10 Did you administer any survey or test to 11 any of the persons involved in this case to assess 12 what gender stereotypes they may hold? 13 A. No. 14 Q. Did you administer any survey or test to 15 any of the persons involved in this case to assess 16 their attitudes towards racial or ethnic minorities? 17 A. No. 18 Q. Did you administer any survey or test to 19 any of the persons involved in this case to assess 20 what racially or ethnically based stereotypes they 21 may hold? 22 A. No. But you're aware of the fact that 23 there's a lot of research showing that people will 24 explicitly renounce racism or sexism but then in -- 25 but then also show that they are aware of the</p>
<p style="text-align: right;">83</p> <p>1 not professional standards for doctors? 2 A. For evaluating physicians who have a 3 complaint lodged against them there is not an agreed 4 upon -- 5 Q. That's not my question. 6 So are there currently agreed upon 7 professional standards by which physicians need to 8 operate? 9 A. I'm sure there are. I'm sure the AMA has 10 some. But they're vague and every institution has to 11 interpret them separately. 12 Q. Okay. But is your -- I don't think but 13 maybe I'm wrong, is your testimony that doctors do 14 not need to follow the AMA guidelines or 15 professional standards? 16 A. No. They do but they're vague. Yes, they 17 do. Okay, yes. I'm supposed to keep it short. Yes. 18 Q. Dr. Carnes, before preparing Exhibit 1, 19 your expert report in this case, did you interview 20 anyone involved in this case? 21 A. No. 22 Q. Why not? 23 A. Well, I don't know any of them. Who would 24 I interview? 25 Q. Did you -- did you administer any survey</p>	<p style="text-align: right;">85</p> <p>1 societal stereotypes about various groups. And I 2 cited much of the research that documents that in my 3 report, including the UCLA study of Ghavami and 4 Peplau. We are aware of the stereotypes even if on 5 a survey we say, you know, we're not biased in any 6 way. So surveys would be irrelevant. Living in 7 this society we are all aware of the stereotypes and 8 all it takes is being aware of them to allow them to 9 serve as a filter. 10 Q. Dr. Carnes, did you test any of the 11 persons involved in this case to determine whether 12 they hold any implicit biases? 13 A. Not this case. We did Implicit 14 Association Tests of faculty at the University of 15 Wisconsin, who I imagine would be similar to those 16 involved in the case. And 70 percent of them showed 17 an implicit bias favoring male gender stereotypes 18 and leader. 19 Q. Dr. Carnes, is imagination a reliable and 20 -- a reliable scientific principle? 21 A. Imagination? 22 Q. Yep. 23 A. I don't know. 24 Q. You're a scientist. 25 A. I have not studied imagination.</p>

<p style="text-align: right;">86</p> <p>1 Q. So is it your testimony that surveys are 2 irrelevant to determining what biases or stereotypes 3 people may hold? 4 A. Well, surveys are very relevant for 5 explicit beliefs. You know, you have a chance to 6 thoughtfully think about that answer. Do I believe 7 this or not? But they do not tape into these more 8 implicit kinds of cognitive processes. These 9 automatic processes. And this has been known. 10 Actually, one of my collaborators, Patricia Devine 11 first showed this in 1989, in one of the most well 12 cited papers in the world in which she called it the 13 automatic and controlled aspects of prejudice. 14 Q. Dr. Carnes, so you've testified that you 15 did not conduct any tests on any person involved in 16 this case; correct? 17 A. Of course. 18 Q. Why did you not test Dr. Bala for any 19 biases? 20 A. Well, why would I? I mean, we all have 21 the same -- men and women, we all have the same 22 biases. We live in a society that has assumptions 23 about groups of people. We learn these stereotypes. 24 And just because we know them they are easily 25 activated. So men and women have the same biases.</p>	<p style="text-align: right;">88</p> <p>1 could probably affect the way he interacts with 2 women. Yeah, I guess that's true. But I mean, 3 that's guessing. I am not thinking of research 4 which would show that right now but yes, I suppose 5 that's true. 6 Q. If someone holds an implicit negative 7 attitude towards men, could that affect how they 8 interact with men? 9 A. Yes. Yes, I think. Of course. Yes. Of 10 course it would. Yes. 11 Q. If someone holds negative -- 12 A. Yes. 13 Q. -- stereotypes about male physicians or 14 male nurses, could that affect how they interact 15 with male physicians or male nurses? 16 A. I think what I'm reacting to is the term 17 "negative," because within the stereotypes, the 18 societal stereotypes about men and women, there are 19 both negatives and positives, so. 20 Q. And I'm asking you about negative 21 stereotypes. 22 A. So, so, the negative stereotypes would be 23 things like aggressive, commanding. I mean, what 24 would be the negative stereotypes about men that 25 you're -- abuse?</p>
<p style="text-align: right;">87</p> <p>1 Blacks and Whites have the same biases. We all have 2 these societal -- this knowledge of group 3 stereotypes. 4 Q. If someone -- 5 ZOOM TECHNICIAN: Counsel, sorry. 6 Counsel, sorry to interrupt. I have an Emily 7 Schultz in the waiting room. Would you like me to 8 admit them in? 9 MS. THOMPSON: Please. 10 ZOOM TECHNICIAN: Okay. Thank you. Sorry 11 about that. 12 (WHEREUPON, Emily Shults joined the 13 deposition.) 14 BY MS. THOMPSON: 15 Q. Dr. Carnes, if someone holds a negative 16 attitude towards me could that affect how they 17 interact with men? 18 A. An explicit negative attitude? 19 Q. Yes. 20 A. I mean, I guess. I'm trying to think of 21 the research. I mean, I guess so. Right? If you 22 don't -- explicitly, yes, I guess that's true. If 23 you're explicit. And I was trying to think in this 24 case, Kirsch, I guess, had explicitly made negative 25 comments about women so I would imagine, yes, that</p>	<p style="text-align: right;">89</p> <p>1 Q. Dr. Carnes, you're the expert on gender 2 stereotypes. So if someone holds negative 3 stereotypes about male physicians or male nurses 4 could that affect how they interact with male 5 physicians or male nurses? 6 MR. BRISCHETTO: Objection. Counsel 7 introduced the term "negative." Not the witness. 8 Improper foundation. Vague and ambiguous. 9 Go ahead. 10 THE DEPONENT: Yes. Because if they -- if 11 they know those negative stereotypes, they also know 12 the positive ones. They are part and parcel. You 13 know, the positive stereotypes about men. Anyway, 14 all right. Go ahead. Sorry. 15 BY MS. THOMPSON: 16 Q. Dr. Carnes, could a bias against men 17 affect interpretations of male behavior? 18 A. Yes. 19 Q. Is it possible that Dr. Bala's perceptions 20 of how people treated her were influenced by biases 21 that she holds? 22 A. Well, it is possible, but you have 23 mountains of documents, emails, and other things 24 which would suggest that her communication, her tone 25 was very collaborative. You used that word. And</p>

<p style="text-align: right;">90</p> <p>1 trying to take a systems approach. The more negative 2 things were coming at her.</p> <p>3 Q. And Dr. Carnes, we're going to get to 4 that. My questions are specific to Dr. Bala right 5 now. And so I want to be clear.</p> <p>6 Is your testimony that Dr. Bala is free of 7 bias?</p> <p>8 A. No. None of us are free of bias. I mean, 9 I went into geriatrics, and when I take that IAT I'm 10 biased against old people. I mean, it's -- these 11 are societal biases that -- and that's, in my 12 opinion, the knowledge of this is so pervasive, OHSU 13 should absolutely have come forth with processes to 14 help Dr. Bala when clearly they were placing her in 15 a setting where any kind of societal biases against 16 women in powerful leadership positions, women of 17 color, women of Asian-Indian descent. I mean, it 18 was obvious that these biases would come into play 19 in this setting.</p> <p>20 Q. Getting back to my question, Dr. Carnes. 21 So is it your testimony that Dr. Bala 22 herself is immune to the effects of bias?</p> <p>23 A. No. Of course not. We all have biases.</p> <p>24 Q. And so -- but you didn't administer any 25 tests with Dr. Bala; correct?</p>	<p style="text-align: right;">92</p> <p>1 that the occurrences that happened to Dr. Bala and 2 the behaviors that were -- that occurred in the 3 whole situation, basically replicate multiple, 4 multiple experimental studies.</p> <p>5 BY MS. THOMPSON: 6 Q. And Dr. Carnes, we'll get to that. We'll 7 get to that.</p> <p>8 Do you believe that you or Dr. Bala's 9 coworkers are in a better position to judge whether 10 Dr. Bala acted appropriately while employed at OHSU?</p> <p>11 MR. BRISCHETTO: Objection. Vague. 12 Go ahead.</p> <p>13 THE DEPONENT: I don't -- I wasn't there. 14 Yeah.</p> <p>15 BY MS. THOMPSON: 16 Q. Dr. Carnes, what standards or criteria of 17 professional behavior did you use to judge Dr. 18 Bala's behavior at OHSU?</p> <p>19 MR. BRISCHETTO: Same objection. 20 Go ahead.</p> <p>21 THE DEPONENT: I don't -- I don't think I 22 know. I mean, just the fact that, again, research 23 would show the exact -- if Dr. Bala had been a man 24 in the exact same situation things would have been 25 different based on many studies in which, you know,</p>
<p style="text-align: right;">91</p> <p>1 A. I did not.</p> <p>2 Q. Okay. You did not conduct any examination 3 of how Dr. Bala's biases may have affected her 4 behavior at OHSU; correct?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. Did you conduct any observational 7 studies at OHSU for the purpose of forming your 8 opinions in this case?</p> <p>9 A. No.</p> <p>10 Q. Did you review any video --</p> <p>11 A. I've never been to OHSU.</p> <p>12 Q. Sorry to speak over you.</p> <p>13 A. I'm sorry; I just said I've never been to 14 OHSU.</p> <p>15 Q. Did you review any video or audio that 16 captured Dr. Bala's interactions with others on the 17 job while she was employed by OHSU?</p> <p>18 A. No.</p> <p>19 Q. If you haven't observe Dr. Bala's behavior 20 in her workplace, how can you determine whether Dr. 21 Bala acted professional or unprofessional while 22 working at OHSU?</p> <p>23 MR. BRISCHETTO: Objection. Vague. 24 Go ahead.</p> <p>25 THE DEPONENT: I can't -- all I can say is</p>	<p style="text-align: right;">93</p> <p>1 that happened. They're identically credentialed 2 people, a man or a woman, the evaluation is 3 different. So I don't know.</p> <p>4 BY MS. THOMPSON: 5 Q. So is your testimony that you did not 6 apply any criteria or standards in judging whether 7 or not Dr. Bala's behavior at OHSU was professional 8 or not?</p> <p>9 MR. BRISCHETTO: Improper foundation. 10 Misstates testimony. 11 Go ahead.</p> <p>12 THE DEPONENT: Just the fact that, again, 13 I can only say based on research, experimental 14 studies in which the same actors, either male or 15 female, the criteria of judging the behavior would 16 be that they're treated the same.</p> <p>17 BY MS. THOMPSON: 18 Q. I understand that there are studies. I'm 19 asking you about your assessment of Dr. Bala's 20 behavior at OHSU. Because you reached conclusions 21 and stated multiple opinions about Dr. Bala's 22 behavior at OHSU. So I'm asking you, what standards 23 or criteria did you use to judge Dr. Bala's behavior 24 at OHSU?</p> <p>25 MR. BRISCHETTO: Assumes facts not in</p>

<p style="text-align: right;">94</p> <p>1 evidence.</p> <p>2 Go ahead.</p> <p>3 THE DEPONENT: What standards did I use to</p> <p>4 judge her behavior? I would have to return to the</p> <p>5 research. You know, studies show that the most</p> <p>6 effective clinical leader in that kind of situation</p> <p>7 where it's task oriented, under pressure, is a</p> <p>8 directive communicator, and that research shows when</p> <p>9 women communicate in a direct manner they tend to be</p> <p>10 evaluated negatively.</p> <p>11 BY MS. THOMPSON:</p> <p>12 Q. I'm not asking you about other people's</p> <p>13 evaluation of Dr. Bala. I'm asking you about your</p> <p>14 assessment that you stated repeatedly in your</p> <p>15 report, Exhibit 1, that Dr. Bala behaved</p> <p>16 professionally. So as a scientist, what reliable</p> <p>17 standards or criteria did you use to draw those</p> <p>18 conclusions?</p> <p>19 MR. BRISCHETTO: Vague. Ambiguous.</p> <p>20 Improper foundation.</p> <p>21 Go ahead.</p> <p>22 THE DEPONENT: Yeah, I'm -- I am not sure</p> <p>23 how to answer that. It just, again, I have to go</p> <p>24 back to the research. Her behavior, asking for</p> <p>25 quiet when she's -- direct communication. Asking</p>	<p style="text-align: right;">96</p> <p>1 BY MS. THOMPSON:</p> <p>2 Q. Which of the studies cited in your report</p> <p>3 addressed a situation where a leader was brought in</p> <p>4 to change a system?</p> <p>5 A. I would have to go back and see because I</p> <p>6 don't think that I was particularly asked to bring</p> <p>7 in research to support that, but I can. I have</p> <p>8 published a paper that looked at gender in</p> <p>9 physicians leading cardiopulmonary resuscitation</p> <p>10 events, which are also very stressful, task-</p> <p>11 oriented, time-sensitive situations, similar to what</p> <p>12 Dr. Bala would have been in.</p> <p>13 Q. What's the name of that study?</p> <p>14 A. It's called "Witchy with a B." It's in</p> <p>15 the Journal of General Internal Medicine. The first</p> <p>16 author is Kolehmainen, K-O-H-L-E-M-A-I-N-E-N (sic).</p> <p>17 It actually received an award. And we looked at</p> <p>18 their experiences and we reviewed in that some of</p> <p>19 the research on leadership which did conclude that</p> <p>20 the most effective leadership style in those</p> <p>21 situations is directive. And then, it was a</p> <p>22 qualitative study and we found many of the women</p> <p>23 residents feared backlash when they had to</p> <p>24 communicate in a directive manner.</p> <p>25 Q. So Dr. Carnes, I can pull that study up</p>
<p style="text-align: right;">95</p> <p>1 for systems to be put in place that she knew from</p> <p>2 her previous work. She was hired to bring this</p> <p>3 mediocre program up to high standards. She behaved</p> <p>4 that way. She recommended all kinds of system</p> <p>5 changes. I think her behavior was -- I think she</p> <p>6 was behaving the way she was recruited to behave.</p> <p>7 But she was kind of undercut at every turn.</p> <p>8 BY MS. THOMPSON:</p> <p>9 Q. Dr. Carnes, I'm asking you as a scientist,</p> <p>10 what standards or criteria did you use to assess</p> <p>11 that Dr. Bala behaved professionally while employed</p> <p>12 at OHSU?</p> <p>13 MR. BRISCHETTO: Continuing objection.</p> <p>14 Go ahead.</p> <p>15 THE DEPONENT: As a scientist I would say</p> <p>16 her behavior aligned with research showing how the</p> <p>17 team leader should behave in the kinds of situations</p> <p>18 that Dr. Bala found herself. I think she behaved in</p> <p>19 the way one would expect she would behave when</p> <p>20 they're brought in to implement a systems change.</p> <p>21 They need to implement changes at all levels, which</p> <p>22 she did. So I guess my standard would be, based on</p> <p>23 research showing how a leader should behave when</p> <p>24 they're brought in to improve the function of a</p> <p>25 clinical program, she behaved as one would hope.</p>	<p style="text-align: right;">97</p> <p>1 now, but as a scientist, I am willing to bet money</p> <p>2 that if you published a study, that you used certain</p> <p>3 criteria or standards to make assessments; correct?</p> <p>4 In that study that you just mentioned.</p> <p>5 A. Yes.</p> <p>6 Q. So again, I'm asking you, what standards</p> <p>7 or criteria did you use in forming your opinions</p> <p>8 about Dr. Bala's case? What standards or criteria</p> <p>9 did you use?</p> <p>10 A. It would be my knowledge of that research</p> <p>11 that I believed her behavior met the criteria of</p> <p>12 somebody who would be leading a team in those kinds</p> <p>13 of situations.</p> <p>14 Q. And what are those criteria, Dr. Carnes?</p> <p>15 A. Directive communication style. I would</p> <p>16 have to go back and pull some of those studies to</p> <p>17 give you the exact things. I think this has been</p> <p>18 studied by a group in simulation at Northwestern</p> <p>19 University. But --</p> <p>20 Q. Are these studies that you're referring to</p> <p>21 now, and specifically this "Witchy with a B," did</p> <p>22 you rely on that study in forming your opinions in</p> <p>23 this case?</p> <p>24 A. Well, I wasn't specifically asked to</p> <p>25 comment on Dr. Bala's behavior. At least the way</p>

<p style="text-align: right;">98</p> <p>1 you're asking me the question did not lead me to 2 bring in that research.</p> <p>3 Q. So is it fair to say that you did not rely 4 on any standards or criteria when you opined in your 5 report repeatedly that Dr. Bala's behavior at OHSU 6 was professional?</p> <p>7 MR. BRISCHETTO: Misstates the testimony. 8 Asked and answered. Improper foundation. 9 Go ahead.</p> <p>10 THE DEPONENT: Yeah. I would say that 11 does misstate the testimony because it seems to me 12 I've said several times that I did have some 13 knowledge of the research on leadership. 14 BY MS. THOMPSON:</p> <p>15 Q. I'm not asking about your knowledge of 16 research.</p> <p>17 A. And I think she would meet that. I think 18 I actually may have said that she was behaving in a 19 directive communication style but maybe I didn't. 20 Anyway, I feel like I've answered the question, so.</p> <p>21 Q. So let me ask you again. What standards 22 or criteria of professional behavior did you use to 23 judge Dr. Bala's behavior at OHSU.</p> <p>24 MR. BRISCHETTO: Objection. Asked and 25 answered.</p>	<p style="text-align: right;">100</p> <p>1 Q. So going to Exhibit 1, which is a copy of 2 your report which you have, on page 2 of your report 3 you refer to "rigorous experimental designs for the 4 differences in evaluation of a male and female 5 employee can only be attributed to their differences 6 in gender."</p> <p>7 A. Mm-hmm.</p> <p>8 Q. Is that correct?</p> <p>9 A. Yeah.</p> <p>10 Q. Okay. What rigorous -- what do rigorous 11 experimental designs mean to you?</p> <p>12 A. So a rigorous experimental design would be 13 a randomized controlled study where the only 14 variable that's different would be sex or gender.</p> <p>15 Q. Do you think that it is important that the 16 designs relied on by studies be rigorously 17 conducted?</p> <p>18 A. Yes.</p> <p>19 Q. Why?</p> <p>20 A. Well, I mean, there are different study 21 designs. It depends on what your research question 22 is. But if you are looking for causality, really 23 the randomized control design is the only design 24 that will give you causality. So that's why it's 25 the only design where you can 100 percent say it was</p>
<p style="text-align: right;">99</p> <p>1 Go ahead.</p> <p>2 THE DEPONENT: I guess I don't know what 3 you want. I just have to say then I don't know.</p> <p>4 BY MS. THOMPSON:</p> <p>5 Q. Let me ask it a different way. 6 Did you disclose in your report any 7 standards or criteria of professional behavior that 8 you relied upon to judge Dr. Bala's behavior at 9 OHSU?</p> <p>10 MR. BRISCHETTO: Objection. Improper 11 foundation. 12 Go ahead.</p> <p>13 THE DEPONENT: No. I didn't reference any 14 professional behavior that I know of. But in terms 15 of her trying to implement a system change --</p> <p>16 BY MS. THOMPSON:</p> <p>17 Q. Dr. Carnes, I'm not asking you -- 18 A. -- her behavior to implement a system 19 change was what one would expect.</p> <p>20 Q. Okay. Did you conduct any experiments to 21 gather information that may be relevant to this 22 case?</p> <p>23 A. I mean, my experimental research would be 24 kind of indirectly relevant, not probably 25 specifically relevant. So no.</p>	<p style="text-align: right;">101</p> <p>1 gender because everything else is held constant. So 2 in a clinical setting, for example, when you're 3 testing a drug and you do a randomized control 4 trial, the participants are identical in everything 5 except some get the drug and some get placebo. And 6 in the gender realm that drug would be gender. 7 You've got male or female. Everything else being 8 identical.</p> <p>9 Q. Dr. Carnes, does using a certain amount of 10 rigor or meticulousness in one's study or experiment 11 help ensure that the conclusion is valid?</p> <p>12 A. Yes.</p> <p>13 Q. On the flip side, if you are reviewing 14 research that seemed to be based on incomplete or 15 imprecise or questionable experimental designs you 16 might question that research; correct?</p> <p>17 A. Well, or at least you, I mean, every study 18 has flaws. So you would just expect that in the 19 discussion the authors acknowledged, you know, maybe 20 there was a low response rate. Maybe, you know, so 21 there is no perfect study. But as long as the 22 researcher has acknowledged the limitations of the 23 study and the applicability of the results then I 24 would consider that fair.</p> <p>25 Q. Would you question a study's results if</p>

<p style="text-align: right;">102</p> <p>1 there were no experimental design at all?</p> <p>2 A. Well, no, because it all depends on the</p> <p>3 research question. So for example, I've done a</p> <p>4 number of studies that use qualitative methods, and</p> <p>5 qualitative methods are also, I mean, there's books</p> <p>6 written on qualitative methods. So but it often</p> <p>7 provides the context to understand some of the</p> <p>8 quantitative results. And they're quite rigorous,</p> <p>9 too. So it's not just an anecdotal talking to</p> <p>10 somebody but most qualitative research they'll do</p> <p>11 in-depth interviews and then they'll synthesize</p> <p>12 quotes from the interviews, look for themes that</p> <p>13 emerge. And they often provide context for more</p> <p>14 quantitative studies.</p> <p>15 Q. Understood. And even in qualitative</p> <p>16 research there is still some experimental design?</p> <p>17 A. Not experimental. No. Never use the word</p> <p>18 "experimental" when you're talking qualitative</p> <p>19 researchers.</p> <p>20 Q. Okay.</p> <p>21 A. Their hackles will go up. But there's</p> <p>22 certainly rigor. Yes, there's rigor. And they're</p> <p>23 not experimental.</p> <p>24 Q. Okay. And thank you for clarifying that.</p> <p>25 Would you say though that there is</p>	<p style="text-align: right;">104</p> <p>1 would you?</p> <p>2 A. Rely on it for what?</p> <p>3 Q. For forming any sort of opinion?</p> <p>4 A. So if you just have like an anecdotal --</p> <p>5 an anecdote? No, but it might stimulate you to go</p> <p>6 further.</p> <p>7 Q. Okay. If there is a -- if there was</p> <p>8 research or a study conducted -- let me back up.</p> <p>9 If there was qualitative research or a</p> <p>10 qualitative study that was conducted without any</p> <p>11 research design it likely would not be published;</p> <p>12 correct?</p> <p>13 A. It probably wouldn't even be conducted.</p> <p>14 Right.</p> <p>15 Q. Because if there's no research design,</p> <p>16 it's not research; is that correct?</p> <p>17 A. Right. That's right.</p> <p>18 Q. If there's no research design, it is not a</p> <p>19 true study; correct?</p> <p>20 A. No. It might be -- it might be quality</p> <p>21 improvement. A lot of projects to try to improve</p> <p>22 the quality of patient care go on but they don't</p> <p>23 even have to go through the IRB. They're not</p> <p>24 considered research.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">103</p> <p>1 research design, certainly?</p> <p>2 A. Yes. Absolutely.</p> <p>3 Q. Even when we are doing qualitative</p> <p>4 research we are asking participants the same</p> <p>5 questions; correct?</p> <p>6 A. No, not always. When you're doing</p> <p>7 qualitative research, say the first three people you</p> <p>8 interview there is something that's coming up that</p> <p>9 wasn't in your initial guide. Qualitative research</p> <p>10 allows you to further probe that and then perhaps</p> <p>11 with the next person you interview include that. So</p> <p>12 it's --</p> <p>13 Q. Understood.</p> <p>14 A. Yes.</p> <p>15 Q. But there's an initial guide that --</p> <p>16 A. Yes. There's an initial interview guide.</p> <p>17 And that guide --</p> <p>18 Q. And that's --</p> <p>19 A. Yep.</p> <p>20 Q. Yes. There is research design; correct?</p> <p>21 A. Absolutely.</p> <p>22 Q. Even qualitative research?</p> <p>23 A. Absolutely. Yep.</p> <p>24 Q. Okay. And so if there was no research</p> <p>25 design at all in a study, you wouldn't rely on that,</p>	<p style="text-align: right;">105</p> <p>1 A. They're still important for systems change</p> <p>2 but they're not considered research.</p> <p>3 Q. And if there was some sort of activity</p> <p>4 that was not based on research design that likely</p> <p>5 would not withstand peer review for purposes of</p> <p>6 publication; is that correct?</p> <p>7 A. That is true. I'm not sure where you are</p> <p>8 going with this but one of the purposes of at least</p> <p>9 experimental research is that it is generalizable</p> <p>10 outside of the study.</p> <p>11 Q. So what is the purpose of research design</p> <p>12 then?</p> <p>13 A. To answer a research question.</p> <p>14 Q. And to, when you create the design you are</p> <p>15 intending to research reliable results; correct?</p> <p>16 A. Yes.</p> <p>17 Q. And again, you did not conduct any study</p> <p>18 with respect to the Bala case; correct?</p> <p>19 A. No. But again, there are -- because there</p> <p>20 are so many experimental studies relevant to it,</p> <p>21 those experimental studies can be generalizable</p> <p>22 outside of the bounds of an individual study.</p> <p>23 Q. Dr. Carnes, did you identify any female or</p> <p>24 male physicians at OHSU who were identical in all</p> <p>25 respects except for their gender?</p>

<p style="text-align: right;">106</p> <p>1 A. No.</p> <p>2 Q. Did you identify any female or male</p> <p>3 physicians at OHSU who were identical in all</p> <p>4 respects except for their race or ethnicity?</p> <p>5 A. No.</p> <p>6 Q. Did you conduct any statistical analysis</p> <p>7 of any data from this case?</p> <p>8 A. No.</p> <p>9 Q. Did you compare the contract renewals of</p> <p>10 female physicians and male physicians at OHSU?</p> <p>11 A. No.</p> <p>12 Q. Did you compare contract renewals of</p> <p>13 female and male physicians at the Knight</p> <p>14 Cardiovascular Institute?</p> <p>15 A. No.</p> <p>16 Q. Did you compare performance reviews of</p> <p>17 female physicians and male physicians at OHSU?</p> <p>18 A. No. But again --</p> <p>19 Q. Did you --</p> <p>20 A. -- there are, you know, I think the study</p> <p>21 I cited by Shelley Correll is directly relevant</p> <p>22 though because she had over, I mean, she had</p> <p>23 thousands of evaluations in the IT sector. Again,</p> <p>24 quite a male-dominated field. And some of the terms</p> <p>25 that were used to evaluate women and men were very</p>	<p style="text-align: right;">108</p> <p>1 correct?</p> <p>2 A. Yes. Yes.</p> <p>3 Q. And that is -- would it be fair to say</p> <p>4 that is standard in your field? Because I saw it is</p> <p>5 routinely used in multiple studies that you cited in</p> <p>6 your report and that you have authored. It's kind</p> <p>7 of the gold standard; correct?</p> <p>8 A. To do textual analysis? Well, I think we</p> <p>9 were one of the first to do it. We looked in grant</p> <p>10 reviews and also looked at letters of</p> <p>11 recommendation. But I do think that it has been</p> <p>12 more and more widely used. It started off, I think,</p> <p>13 in psychology, but I have seen a number of papers</p> <p>14 since that do use the linguistic LAW C, whatever it</p> <p>15 is. And certainly NVivo is standard. University of</p> <p>16 Wisconsin makes it available to all faculty for</p> <p>17 free. I mean, it's a very widely used qualitative</p> <p>18 analysis program.</p> <p>19 Q. So you had access to that program?</p> <p>20 A. Mm-hmm.</p> <p>21 Q. Yes? And you did not use it or any other</p> <p>22 sort of textual analysis program to evaluate the</p> <p>23 materials in this case, did you?</p> <p>24 A. No.</p> <p>25 Q. Okay. Did you use any coding system or a</p>
<p style="text-align: right;">107</p> <p>1 different. And there was a lot of gender policing.</p> <p>2 So the findings from experimental studies are</p> <p>3 directly relevant but no, I didn't -- obviously did</p> <p>4 not study OHSU or any of the things you're asking.</p> <p>5 Q. So similarly, you also didn't compare the</p> <p>6 performance evaluations of female or male staff at</p> <p>7 the Knight Cardiovascular Institute; correct?</p> <p>8 A. No, I did not. But there were many gender</p> <p>9 terms that emerged from the information I had about</p> <p>10 Dr. Bala. But no, I didn't do any of that.</p> <p>11 Q. Dr. Carnes, did you use any program or</p> <p>12 piece of software, such as a linguistic inquiry word</p> <p>13 count program, or I saw in some of your research</p> <p>14 papers repeatedly you were using NVivo, NVivo?</p> <p>15 A. NVivo. Yeah.</p> <p>16 Q. Okay. Did you use any such program to</p> <p>17 conduct intentional analysis of the records in this</p> <p>18 case?</p> <p>19 A. No. Not this case at all. But again,</p> <p>20 that research has been done in other cases in other</p> <p>21 settings that are relevant. But no, not anything --</p> <p>22 nothing at OHSU.</p> <p>23 Q. Okay. And so you just mentioned that in</p> <p>24 other settings they use this sort of textual</p> <p>25 software to do a textual analysis of records;</p>	<p style="text-align: right;">109</p> <p>1 code book for analyzing the case documents that you</p> <p>2 reviewed in this case?</p> <p>3 A. No.</p> <p>4 Q. In a study on assessing bias during team-</p> <p>5 based clinical decision-making, you and your fellow</p> <p>6 researchers used the de Groot Critically Reflective</p> <p>7 Diagnoses Protocol to code transcripts of meetings</p> <p>8 at which decisions about treatment were made for</p> <p>9 patients with advanced heart failure; correct?</p> <p>10 A. Mm-hmm.</p> <p>11 Q. Okay. And I --</p> <p>12 THE REPORTER: I'm sorry, Dr. Carnes, was</p> <p>13 that a yes?</p> <p>14 THE DEPONENT: Yes.</p> <p>15 MS. THOMPSON: Give me one second. I'm</p> <p>16 putting into the chat now Document E which I would</p> <p>17 like to mark as --</p> <p>18 THE REPORTER: Exhibit 3.</p> <p>19 (WHEREUPON, Exhibit 3 was marked for</p> <p>20 identification.)</p> <p>21 MS. THOMPSON: Thank you.</p> <p>22 BY MS. THOMPSON:</p> <p>23 Q. Dr. Carnes, do you have access to Exhibit</p> <p>24 --</p> <p>25 A. Is that the Breathett paper? I can't</p>

<p style="text-align: right;">110</p> <p>1 actually see which one it is.</p> <p>2 Q. Here, I'll screenshare.</p> <p>3 This is an article, "This happens all the</p> <p>4 time."</p> <p>5 A. Yes. Yeah, Amy's paper. Yep. Uh-huh.</p> <p>6 Q. Okay. You're familiar with this</p> <p>7 publication; right?</p> <p>8 A. Yep. It was her dissertation. Yep.</p> <p>9 Q. Okay. And there was a research design;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And there were four coders who analyzed</p> <p>13 and transcribed interview text; correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So even if you're not using</p> <p>16 software, developing coding systems, that is</p> <p>17 standard in qualitative research; correct?</p> <p>18 A. Yep. I mean, I did not conduct any</p> <p>19 research on OHSU people. You can just take that. I</p> <p>20 did not conduct any -- I have conducted the kind of</p> <p>21 research that you mentioned but I didn't study</p> <p>22 anybody at OHSU. I applied research that I was</p> <p>23 aware of to the situation.</p> <p>24 MS. THOMPSON: Give me a moment. I'm</p> <p>25 going to introduce Document F, which I'm marking as</p>	<p style="text-align: right;">112</p> <p>1 research. I had not been familiar with it before.</p> <p>2 Before then.</p> <p>3 Q. Okay. So, and I'm sorry, did you use any</p> <p>4 coding system or any code book for analyzing the</p> <p>5 documents in this case?</p> <p>6 A. No.</p> <p>7 Q. Okay. Why not? Why did you not use a</p> <p>8 coding protocol to review the records in this case?</p> <p>9 A. Well, I wasn't approaching it as a</p> <p>10 research project. I was asked to provide testimony</p> <p>11 based on my expertise. I was not asked to conduct a</p> <p>12 study on the work. I mean, then I would have</p> <p>13 probably asked for many other documents. And I</p> <p>14 would have had to have funding for a graduate</p> <p>15 student so I wasn't in any way resourced to</p> <p>16 undertake a study. I simply was asked to review the</p> <p>17 documents, and in light of the research that I have</p> <p>18 conducted and the research that I'm aware of,</p> <p>19 evaluate how this situation fit into that research</p> <p>20 framework.</p> <p>21 Q. So are you saying that the opinions that</p> <p>22 you've provided in this case are not based on any</p> <p>23 scientific or reliable methodology?</p> <p>24 MR. BRISCHETTO: Objection. Misstates the</p> <p>25 testimony.</p>
<p style="text-align: right;">111</p> <p>1 Exhibit 4.</p> <p>2 (WHEREUPON, Exhibit 4 was marked for</p> <p>3 identification.)</p> <p>4 BY MS. THOMPSON:</p> <p>5 Q. Dr. Carnes, let me know when you have F</p> <p>6 open.</p> <p>7 A. Can you share it? Because I can't see</p> <p>8 which one it is.</p> <p>9 Q. Yes.</p> <p>10 A. Is it the study with Khadijah Breathett?</p> <p>11 Yeah. So Khadijah Breathett is a</p> <p>12 cardiologist. She was at Arizona and then went to</p> <p>13 Indiana University. And I was kind of mentoring and</p> <p>14 then collaborated with her on an NIH grant.</p> <p>15 Q. Okay. So Exhibit 4, which is an article</p> <p>16 published online on May 9, 2023, entitled, "A novel</p> <p>17 approach for assessing bias during team-based</p> <p>18 clinical decision-making," you helped to author this</p> <p>19 article; correct?</p> <p>20 A. Yes. Yes. I had been unfamiliar with the</p> <p>21 de Groot tool before that and I found it and thought</p> <p>22 it was interesting.</p> <p>23 Q. Did you find that it was helpful in your</p> <p>24 research?</p> <p>25 A. I thought it was interesting in this</p>	<p style="text-align: right;">113</p> <p>1 Go ahead.</p> <p>2 THE DEPONENT: Well, I think, I mean, I</p> <p>3 would think -- again, this is my first time being</p> <p>4 deposed and providing expertise in this area. But I</p> <p>5 believe I was invited to do that because my</p> <p>6 knowledge was felt to be applicable. I was not</p> <p>7 asked to conduct a study. I was asked, here's all</p> <p>8 these documents. Review them. And based on your, I</p> <p>9 would say, considerable expertise of gender and race</p> <p>10 bias in academic medicine, what do you think</p> <p>11 happened here? And provide us expert testimony.</p> <p>12 And I did to the best of my ability do that. I was</p> <p>13 not asked to conduct a research study.</p> <p>14 BY MS. THOMPSON:</p> <p>15 Q. But you were asked to provide an expert</p> <p>16 opinion.</p> <p>17 A. And I think I did that.</p> <p>18 Q. Okay. Based on what reliable --</p> <p>19 A. Based on my research and --</p> <p>20 Q. It's --</p> <p>21 A. I'm sorry. Yes. Go ahead. Sorry.</p> <p>22 Q. Sorry. We shouldn't talk over one</p> <p>23 another.</p> <p>24 A. I know. I'm sorry.</p> <p>25 Q. Ms. Byrd, it gets hard for her.</p>

<p style="text-align: right;">114</p> <p>1 Actually, go ahead. Go ahead. Finish 2 your sentence. 3 A. I forgot what it was now. 4 Q. Okay. 5 A. Oh, no, I was just going to say, based on 6 my expertise -- and maybe I'm misunderstanding what 7 you mean by an expert. I was not aware of the fact 8 that being brought in as an expert you were expected 9 to actually apply your expertise to study the case 10 because in the two cases I did for my expertise as a 11 geriatrician way in the past I was asked that and 12 did that. I did not conduct a study in the nursing 13 home where I was asked to evaluate whether a patient 14 would have fallen. I was only asked as an expert in 15 geriatrics to, and my expertise in the research in 16 that, to evaluate whether I thought adequate 17 protections were put in place to prevent them from 18 falling, just like in this case I was asked for my 19 expert opinion, did I think that Dr. Bala had been 20 treated unfairly and not renewed unfairly. So I was 21 not asked to study this. I was asked as an expert 22 just like in the geriatrics case. 23 Q. So is it fair to say that you did not 24 understand that you had to apply -- you had to apply 25 reliable principles and methods within your area of</p>	<p style="text-align: right;">116</p> <p>1 expert testimony, are required to provide an opinion 2 that is based on the reliable application of the 3 principles and methods in your field of expertise to 4 this case? 5 A. No. Not the principles and methods to 6 this case. No. 7 Q. You did not? 8 A. No. 9 Q. Okay. 10 A. I would have had to conduct -- okay, don't 11 use the word "study." Use the word "research." I 12 would have been unable to conduct a study unless my 13 university got a memoranda to share data from OHSU. 14 I had gone through the IRB of both OHSU and the 15 University of Wisconsin. 16 Q. Understood, Dr. Carnes. Let's take the 17 word "study" out of it. 18 A. No, research. I could not conduct 19 research without -- 20 Q. Okay. Let's take the word "research." 21 A. -- going through this. 22 Q. Let's take the word "study" out and let's 23 take the word "research" out. Okay? 24 A. Okay. 25 Q. And let's focus on reliable principles and</p>
<p style="text-align: right;">115</p> <p>1 expertise to be the facts of this case? 2 MR. BRISCHETTO: Objection. 3 THE DEPONENT: I didn't think I was 4 supposed to conduct a study. No, I did not. And I 5 didn't conduct a study. I applied my expertise to 6 this case. I did not study this case. I mean, I 7 did not -- I did not conduct a research study 8 involving this case. No, I did not. I would have 9 had to go through my IRB. I would have to get 10 consent from OHSU for a memoranda of sharing data. 11 There are all kind of things that would have to have 12 been put in place for me to conduct a study at OHSU 13 from my university, from OHSU. It's a very 14 different ballpark -- 15 BY MS. THOMPSON: 16 Q. So let's take -- let's take -- 17 A. -- than serving as an expert witness. 18 Q. So let's take the word "study" out because 19 I understand that the word "study" is a term of art 20 in your field. And let's just talk generally about 21 reliable principles and methods, reliable principles 22 and methods that academic researchers like yourself 23 employ. Okay? So let's take the word "study" out. 24 A. Okay. 25 Q. Did you understand that you, in providing</p>	<p style="text-align: right;">117</p> <p>1 methods. Did you apply reliable principles and 2 methods that are used within your field of study to 3 the facts of this case? 4 A. Yes, I believe I did. 5 Q. Okay. What -- 6 A. Given the context of what I was asked to 7 do I did exactly that. 8 Q. What were the principles that you used? 9 What reliable principles in your field of study did 10 you apply to the facts of this case? 11 A. I asked myself were there randomized 12 controlled experimental studies which are known by 13 the very methodology they use to be generalizable? 14 Were there generalizable studies that I could apply 15 to the situation at OHSU? And I tried to the best 16 of my ability to do exactly that. I went through 17 the materials I was given and looked for examples of 18 things that happened and said does this imitate an 19 experimental study? Or can this be supported by 20 findings in qualitative studies? And that's what I 21 did. So yes, I would say I applied reliable 22 methods. 23 Q. Is it fair to say that you applied other 24 studies to the facts? 25 A. Which in this case I would say would be</p>

<p style="text-align: right;">118</p> <p>1 methods.</p> <p>2 Q. Okay.</p> <p>3 A. You were using the term "methods" loosely.</p> <p>4 I will use the term "methods" loosely.</p> <p>5 Q. Dr. Carnes, why do researchers use study</p> <p>6 protocols or code books when performing archival</p> <p>7 research? Or research involving review of files?</p> <p>8 Why do they use protocols or code books?</p> <p>9 A. So that as much as possible they can come</p> <p>10 up with generalizable findings. So because, again,</p> <p>11 because you cannot do a study in every naturally</p> <p>12 occurring case, the goal is to do research that does</p> <p>13 help explain these phenomenon in naturally occurring</p> <p>14 settings like OHSU. You can't -- you can't always</p> <p>15 conduct a study. So you do a code book in</p> <p>16 qualitative research so that you can find themes so</p> <p>17 that you can develop a conceptual model which can be</p> <p>18 applied more broadly or upon which other research</p> <p>19 can be built. So the goal is always to help explain</p> <p>20 phenomenon beyond the study. You can't study every</p> <p>21 single time a question comes up. I think the</p> <p>22 resources that would be required for Mr. Brichetto</p> <p>23 and his group to conduct a study every time they</p> <p>24 were asked to be involved in a case would just be --</p> <p>25 it would be too great to do. That's the purpose of</p>	<p style="text-align: right;">120</p> <p>1 again.</p> <p>2 Did you prepare a list of terms or</p> <p>3 behaviors -- did you prepare a list of terms or</p> <p>4 behaviors that you determined would signal the</p> <p>5 operation of gender or racial bias in this case?</p> <p>6 MR. BRISCHETTO: Objection. Asked and</p> <p>7 answered.</p> <p>8 Go ahead.</p> <p>9 THE DEPONENT: Did I prepare them separate</p> <p>10 from the studies? No, I had the studies in front of</p> <p>11 me. No, I didn't. I had the studies.</p> <p>12 BY MS. THOMPSON:</p> <p>13 Q. So is it -- so which studies did you rely</p> <p>14 upon? What terms did you rely upon based on the</p> <p>15 studies? I want to know which studies. What were</p> <p>16 the terms?</p> <p>17 A. Well, I think I cited -- I think I did</p> <p>18 cite that Correll study that I was mentioning. And</p> <p>19 there was also one, a study out of -- some CEO</p> <p>20 looked at performance evaluations and found the term</p> <p>21 "abrasive," for example, was a very gender</p> <p>22 imbalanced term. And some of the statements that</p> <p>23 were pulled out of the qualitative research, I think</p> <p>24 that was one of the papers. Murti was one of the</p> <p>25 papers specifically looking at the experience of</p>
<p style="text-align: right;">119</p> <p>1 doing research is to get findings that can be</p> <p>2 generalizable.</p> <p>3 Q. Dr. Carnes, I'm not asking you about</p> <p>4 studies and I'm not asking you about research. I</p> <p>5 want to focus on coding systems.</p> <p>6 Would you agree that researchers use</p> <p>7 coding systems as part of a scientific article to</p> <p>8 ensure an objective assessment to fairly test a</p> <p>9 theory or hypothesis?</p> <p>10 A. Yes. Yes.</p> <p>11 Q. Before you reviewed the documents in this</p> <p>12 case did you prepare any list of terms or behaviors</p> <p>13 that you determined would signal the operation of</p> <p>14 gender or racial bias?</p> <p>15 A. Well, I did review again the papers I've</p> <p>16 cited, many of which list the content of gender</p> <p>17 stereotypes and has been documented again, and</p> <p>18 again, and again, Heilman and Ghavami and Peplau,</p> <p>19 Devine. You know, there are many studies that show,</p> <p>20 again, we know the content of these stereotypes. So</p> <p>21 yes, I did review those again. When I was looking</p> <p>22 at some of the terms that were leveled at Bala to</p> <p>23 reaffirm to myself that I had research supporting my</p> <p>24 contention.</p> <p>25 Q. Dr. Carnes, I'm going to ask my question</p>	<p style="text-align: right;">121</p> <p>1 Asian-Indian women physicians. So again, that would</p> <p>2 be a group that Bala was very much a member of. And</p> <p>3 some of the terms, the descriptions used almost</p> <p>4 exactly mimicked the terms that were in some of the</p> <p>5 materials I was given from the Bala case to review.</p> <p>6 I think I actually quoted some of them. You know,</p> <p>7 one specifically said, you know, a brown Indian</p> <p>8 woman is expected to be warm and soft and</p> <p>9 submissive. And if she gives an order she's</p> <p>10 considered to be a bitch. And I looked at that</p> <p>11 statement and then some of the statements coming out</p> <p>12 of the Bala and I thought, you know, this is</p> <p>13 replicated.</p> <p>14 Q. Okay. So the record is clear, you did not</p> <p>15 yourself prepare a list --</p> <p>16 A. No.</p> <p>17 Q. -- of --</p> <p>18 A. -- I had lists from other researchers.</p> <p>19 Yeah. I had lists from other researchers.</p> <p>20 Q. Okay. And the resources that you</p> <p>21 mentioned, there's a Correll study, a Bhatt study.</p> <p>22 Any others?</p> <p>23 A. Well, the Shelley Correll one from</p> <p>24 Stanford, that was a big one I think, although it</p> <p>25 was in the IT sector but she looked at like</p>

<p style="text-align: right;">122</p> <p>1 thousands of performance evaluations. It was a 2 brilliant study. And then the B-H-A-T-T was a 3 qualitative study looking at Indian physicians, and 4 the M-U-R-T-I was the first author of another 5 qualitative study. And I believe she specifically 6 looked at Asian- Indian women physicians practicing 7 in the U.S. 8 Q. Okay. And is it your testimony that you 9 relied on the list of terms or those studies code 10 books, you used those studies, code books, or terms? 11 A. Terms. Well, not from the qualitative 12 study. Yeah. Sorry, go ahead. I didn't use the 13 terms in the qualitative study to evaluate the 14 content of -- well, I guess I'm not sure what you're 15 asking. I looked at all those studies to see how 16 relevant they were to the case. I don't know what 17 you're meaning by code book. No, I didn't use their 18 code book. 19 Q. Do you know what I mean by the phrase 20 "code book"? 21 A. Well, I do but I'm not sure how it applies 22 to this case. I mean, what would I have -- what 23 would I have applied the code book to? To the 24 emails? I mean, what would I have applied it to? 25 Q. How are -- how are code books used, Dr.</p>	<p style="text-align: right;">124</p> <p>1 gender neutral statements and statements that 2 reflect gender bias. 3 A. Well, I can't -- training has a certain 4 meaning. I don't have a master's degree in 5 sociolinguistics. But whenever I, as a physician- 6 scientist, when I would have a research question, I 7 had the luxury of being at the University of 8 Wisconsin where I had access to some of the top 9 research in the world. So for example, I 10 collaborated with a sociolinguist. And that 11 sociolinguist is very much steeped in the science of 12 analyzing language that would have like gender 13 imbalances. 14 Q. So if I -- 15 A. So, you know, like bossy is a gender 16 imbalance word. So I collaborated with people who 17 had deep expertise. I didn't ask them to train to 18 be a physician- scientist when I collaborated with 19 them. I collaborated with sociolinguists, 20 experimental social psychologists, industrial 21 systems engineers, computer scientists, education 22 scientists. I collaborated with many people who 23 have deep, deep training and expertise in areas. I, 24 myself, didn't have to train in all those areas 25 because that's the beauty of working at a big</p>
<p style="text-align: right;">123</p> <p>1 Carnes? 2 A. Well, the way I use them, and the way they 3 were used in those qualitative studies I referred 4 to, they were in-depth interviews using a guideline 5 to interview. And then they were transcribed and 6 then the code book would then be applied to pull out 7 various phrases that were then grouped into some 8 theme. And then regrouped and a consensus derived. 9 And eventually themes would emerge. And then those 10 themes would generally be used to build some kind of 11 conceptual model. And I did not do any of that. You 12 can just cut to the chase. I didn't do any research 13 regarding the case. It was not a research study. 14 Q. Dr. Carnes, can you please describe all 15 training that you have received to distinguish 16 between statements that are gender neutral and 17 statements that reflect gender bias? 18 A. I don't know what you mean by training, 19 but I think I have, I mean, I have reviewed much 20 research and conducted research related to gender 21 bias. I guess I'm not sure what you're asking me. 22 Q. My question is, do you have any training? 23 Did you receive any training? I mean, you have a 24 master's degree; right? I would like to know all 25 training that you've received to distinguish between</p>	<p style="text-align: right;">125</p> <p>1 research institution. 2 Q. I totally understand. I work in a big law 3 firm. I'm not a tax attorney but I can reach out to 4 -- 5 A. Exactly. Yeah, exactly. 6 Q. Okay. So is it fair to say then that you 7 are not an expert -- there are other experts -- but 8 you, yourself, don't have extensive training or 9 expertise in determining what is a gender neutral 10 statement versus a gender bias statement? 11 A. I guess that's true. I mean, in academic 12 medicine I would be viewed as one of the top experts 13 in this area because I have -- in learning and 14 collaborating from my colleagues in other areas I 15 have brought a lot of that into academic medicine. 16 So even if I, in a gendered way, would be modest 17 because we know modesty is part of a female gender 18 stereotype, if I were to be modest and say I'm not 19 an expert in this area, I think you would actually 20 have many people around the country in academic 21 medicine who would disagree with you and say Carnes 22 is actually an expert in that area. 23 Q. And, okay. I'm not going to ask you to 24 speculate but I think we've already established you 25 have no training or expertise in distinguishing</p>

<p style="text-align: right;">126</p> <p>1 between gender neutral and gender bias statements; 2 correct? 3 MR. BRISCHETTO: Objection. Misstates the 4 testimony. 5 Go ahead. 6 THE DEPONENT: Yeah. I mean, just from my 7 reading, I mean, there's a lot of research that I 8 cited. Correll, for example. Madeline Heilman, a 9 lot. She has that wonderful review paper on gender 10 stereotypes in the workplace. I mean, there are 11 many people. Laurie Rudman at Rutgers. There are 12 many people who have done research who have 13 identified gendered language, gendered statements, 14 gendered stereotypes. And I am familiar with that 15 research. Now -- 16 BY MS. THOMPSON: 17 Q. Okay. 18 A. -- that is not training but I have had -- 19 and I had funding to support my work in this area 20 which some people would argue would give you more 21 credentials than actually training. 22 Q. Dr. Carnes, can speech tone, and I know we 23 spoke a little bit earlier today about tone, but can 24 speech tone or inflection have a bearing on whether 25 words spoken reflect gender bias or racial bias?</p>	<p style="text-align: right;">128</p> <p>1 speculation? 2 A. I'd have to think about that. 3 Q. Take a moment. 4 A. I guess, I don't know. I don't have a 5 definition of speculation. 6 Q. But it just seemed when you were using the 7 word "speculation" that you were meaning what I was 8 using by generalization. So I guess speculation 9 would be more really having nothing to go by. Just, 10 you know, out of the blue. In my mind, speculation 11 is more just out of the blue, whereas generalization 12 would be taking the results of research and 13 attempting to apply it to another situation. I guess 14 that's how I would define speculation. More out of 15 the blue, so. 16 Q. Okay. And you would agree then using your 17 definition of speculation that that would not be an 18 acceptable form of data to use in studying gender 19 bias or discrimination; correct? 20 A. Well, if that was all it was. I suppose 21 one could start with speculation and then search for 22 data to support it, in which case it would be less 23 speculative. But speculation on its own probably is 24 not very useful. 25 Q. So let me give you an example. If a</p>
<p style="text-align: right;">127</p> <p>1 A. I don't know. 2 Q. Let me give you an example. Can the same 3 words be spoken in a polite tone or a condescending 4 tone? 5 A. I guess. 6 Q. And again, we've already established you 7 did not personally observe any of the interactions 8 at issue in this case, did you? 9 A. No. 10 Q. Is speculation about how people will 11 behave towards women versus men acceptable data in 12 studies of sex discrimination? 13 MR. BRISCHETTO: Objection. Vague. 14 Go ahead. 15 THE DEPONENT: Yeah. Speculation is 16 generally not. Generalization of one study to 17 another study -- 18 BY MS. THOMPSON: 19 Q. I'm not asking about that. I'm asking 20 about speculation. 21 A. But is that, I mean, it's just a term. Is 22 that called speculation? I mean, you might call 23 that speculation. I would call that generalizing 24 research to another setting. 25 Q. Okay. What is your definition of</p>	<p style="text-align: right;">129</p> <p>1 researcher wanted to know whether rude behavior by a 2 woman would be treated the same as rude behavior by 3 a man, can the researcher just imagine how people 4 would react to each person and then use those 5 imaginary data points as the basis for their 6 research? 7 A. Well, I would go the other way. I would 8 say if this was something that would be supported by 9 the research as having bias, they would bring the 10 research to support that. 11 Q. Okay. In what studies have you used data 12 based on speculation about how people might behave? 13 A. So didn't we already go through some of 14 these? 15 Q. So you use speculation in your studies? 16 A. No. I try to generalize the findings from 17 other studies which would be applicable to explain 18 the situation at OHSU. 19 Q. Dr. Carnes, have you ever published a 20 study in which you created the data for the study 21 based on thought experiments? 22 MR. BRISCHETTO: Objection. Vague. 23 Go ahead. 24 THE DEPONENT: I don't know. I don't -- I 25 don't know if I ever. I don't think so.</p>

<p style="text-align: right;">130</p> <p>1 BY MS. THOMPSON:</p> <p>2 Q. You don't think so why?</p> <p>3 A. Have I done research based on thought</p> <p>4 experiments? I don't think so. I mean, you could</p> <p>5 -- I might say to somebody, you know, in a thought</p> <p>6 experiment if you switch the gender, you know, if</p> <p>7 you imagine, for example, a man walking in high</p> <p>8 heels and with lipstick on, if you do that thought</p> <p>9 experiment it would seem odd. It might even make</p> <p>10 people laugh, like Tootsie or movies have used this,</p> <p>11 because just do a thought experiment if you switch</p> <p>12 the gender. So I might have invited people to do a</p> <p>13 thought experiment in some of my workshops or</p> <p>14 lectures. But did I ever do research based on a</p> <p>15 thought experiment? I don't know. I don't think I</p> <p>16 have. But I would often use that to explain how</p> <p>17 these automatic processes happen. And you're not</p> <p>18 aware of them sometimes until there's a counter</p> <p>19 stereotype -- counter stereotypic thing happening as</p> <p>20 I just mentioned. You know, putting a man in high</p> <p>21 heels. That looks odd. Why? Because we don't</p> <p>22 expect men to wear high heels.</p> <p>23 Q. Dr. Carnes, can you describe exactly how</p> <p>24 you go about reading case materials to determine</p> <p>25 whether past decisions about an employee were</p>	<p style="text-align: right;">132</p> <p>1 A. Well, to support whether or not I thought</p> <p>2 the same treatment would be applied to Bala had she</p> <p>3 been a man.</p> <p>4 Q. In what published studies, and you have</p> <p>5 many articles in your CV, in which of your published</p> <p>6 studies have you used the method that you just</p> <p>7 described to reach opinions?</p> <p>8 A. Well, I tend to take that kind of critical</p> <p>9 appraisal approach to anything that I do. At least</p> <p>10 I try to. Again, as a physician-scientist I like to</p> <p>11 think that I, you know, apply research, that I</p> <p>12 critically appraise things. So, yeah, I think I do</p> <p>13 try to use those methods. And I mean, in my -- you</p> <p>14 asked which particular studies. So I mean, all of</p> <p>15 them we tried to be very systematic. I published</p> <p>16 two systematic reviews where, you know, we did a lit</p> <p>17 review. We reviewed all the studies. We, you know,</p> <p>18 looked for themes in the studies. Came to</p> <p>19 conclusions. So I do. I try to be quite systematic</p> <p>20 and critically appraise any kind of data I'm</p> <p>21 reviewing. And I suppose if you looked at the case</p> <p>22 as data that's exactly what I did. I reviewed the</p> <p>23 data. I took notes. I looked for how it fit into</p> <p>24 the broader context of the existing research,</p> <p>25 relevant research.</p>
<p style="text-align: right;">131</p> <p>1 influenced by the employee's sex or race?</p> <p>2 A. Okay. Say that again.</p> <p>3 Q. Can you please describe exactly how you go</p> <p>4 about reading case materials to determine whether</p> <p>5 past decisions about an employee were influenced by</p> <p>6 race or gender?</p> <p>7 A. How I go about doing it. Well, I guess</p> <p>8 since this was the first one, I guess I started by</p> <p>9 reading the volumes of material that I was sent and</p> <p>10 taking notes on it. And then in the notes that I</p> <p>11 took reading that case material I would jot myself</p> <p>12 little notes about studies that I thought would be</p> <p>13 relevant. And then later I went back and looked up</p> <p>14 those studies and pulled in notes to myself how I</p> <p>15 thought those studies would be relevant. So I guess</p> <p>16 that was my approach. I can't say how I usually do</p> <p>17 it since it's the first one I've done but I reviewed</p> <p>18 the volumes of materials, took notes on them, and</p> <p>19 then sometimes I knew studies that were there.</p> <p>20 Sometimes I would make a little note to myself to</p> <p>21 further search the literature to see if there was</p> <p>22 something that would support. So I guess I was</p> <p>23 pretty systematic in the way I did it.</p> <p>24 Q. You were looking for studies to support</p> <p>25 what?</p>	<p style="text-align: right;">133</p> <p>1 Q. And the relevant research that you're</p> <p>2 familiar with is again, you are an advocate for</p> <p>3 advancing women in medicine, science, and</p> <p>4 engineering; correct?</p> <p>5 A. Yes. Experimental studies though.</p> <p>6 Q. Okay.</p> <p>7 A. I mean, not just ones that would be</p> <p>8 looking for gender bias but those that look, again,</p> <p>9 to see, like for example, we did a systematic review</p> <p>10 on 27 studies, experimental studies in high-rank</p> <p>11 settings where the only variable changed was gender.</p> <p>12 Identically credentialed applicants and consistently</p> <p>13 the women was least likely to be hired, least likely</p> <p>14 to be advanced, recommended for a lower salary. Her</p> <p>15 work was evaluated of lower quality.</p> <p>16 Q. Dr. Carnes, have any of your published</p> <p>17 studies ever examined the past motivations of</p> <p>18 decision makers with respect to employment</p> <p>19 decisions?</p> <p>20 A. No. Nothing to look at motivations. Only</p> <p>21 the outcomes which I think are the most important.</p> <p>22 Motivations. I mean, motivation is part of behavior</p> <p>23 but the actual behavior is what's measured in the</p> <p>24 studies. It's, you know, how the applicant was</p> <p>25 evaluated.</p>

<p style="text-align: right;">134</p> <p>1 Q. So would it be fair to say that in your 2 past research you have not drawn conclusions about 3 past employment decisions being made with respect to 4 employees based on gender? 5 A. In my -- say it again. 6 MS. THOMPSON: Ms. Byrd, could you read 7 back my question, please? 8 It may not have been a good one, Dr. 9 Carnes. 10 THE REPORTER: Stand by. 11 (WHEREUPON, the record was played back.) 12 MR. BRISCHETTO: Objection. Vague. 13 Go ahead. 14 THE DEPONENT: Yeah, I guess that's fair 15 to say. 16 BY MS. THOMPSON: 17 Q. Dr. Carnes, do you know what claims Dr. 18 Bala has brought against OHSU? What legal claims 19 she has made? 20 A. No, I don't. I don't think -- I don't 21 know. If I did I don't remember exactly, just that 22 there was -- I think I was asked to comment whether 23 I thought there was race and gender bias and whether 24 in her experiences and whether OHSU could have done 25 anything to prevent it. So I think those were the</p>	<p style="text-align: right;">136</p> <p>1 identification.) 2 THE DEPONENT: Oh, yeah, I recognize the 3 title of it. It was in the list. I did have it. I 4 just, I'm sorry, I don't remember it. 5 BY MS. THOMPSON: 6 Q. Okay. And just for consistency, I just 7 want to make sure that we're all looking at the same 8 thing while we're on the record. Dr. Carnes -- 9 A. Yeah, I'm sure I did have this. Yeah. 10 Q. Exhibit 5. 11 A. And what -- 12 Q. Are you familiar with this document? 13 A. Yes. I did have that. Yes, I apologize 14 for not remembering. 15 Q. What steps -- so I'm sorry. When you 16 reviewed the documents in this case then, you were 17 aware that Dr. Bala was suing OHSU for sex and race 18 discrimination? 19 A. Oh, yes, I was aware of that. Yes. 20 Q. Okay. And so when you reviewed documents 21 in this case, what steps did you take to prevent 22 that information from affecting your conclusions? 23 A. I didn't take any steps because I thought 24 I was being brought in as an expert on gender bias 25 in medicine. And so since that -- what the suit was</p>
<p style="text-align: right;">135</p> <p>1 two things I was asked. And I don't think -- I 2 mean, I know that her contract was not renewed and 3 that was the reason she was suing. But I think 4 that's all I know. 5 THE DEPONENT: Unless, if you told me 6 more, Steve, I'm sorry, I don't remember. 7 BY MS. THOMPSON: 8 Q. At the time that you wrote your report, 9 which I recognize you wrote in 2021, but in your 10 report, Exhibit 1, we already went over the sentence 11 where you said that you reviewed all the case 12 materials that were provided to you by Dr. Bala's 13 counsel; correct? 14 A. Mm-hmm. 15 Q. Do you recall that you were provided a 16 copy of Dr. Bala's Second Amended Complaint that was 17 filed in the District of Oregon? 18 A. I'm sure I was. I would have to go back 19 and look at it I'm afraid. 20 MS. THOMPSON: So I've just put into the 21 chat Document I, which will be Exhibit -- 22 THE REPORTER: Exhibit 5. 23 MS. THOMPSON: Exhibit 5, I think? 24 THE REPORTER: Yes. 25 (WHEREUPON, Exhibit 5 was marked for</p>	<p style="text-align: right;">137</p> <p>1 looking for, again, as I went through the materials 2 that I reviewed, as I said, I took notes for when I 3 saw something that I thought could be supported by 4 the research showing gender bias, or particularly 5 gender bias in academic medicine to see this is what 6 gender bias looks like from the research, did I see 7 that reflected in what was going on in that 8 situation. In Bala's situation. 9 Q. Dr. Carnes, did you have -- and I think I 10 know the answer to this but I would like an answer 11 on the record. 12 Did you have anyone who was not aware of 13 Dr. Bala's claims review the documents, the case 14 materials, to see if they reached the same 15 conclusions? 16 A. No. No. 17 Q. I want to be respectful of time and the 18 time difference. Do I have it right, Dr. Carnes, 19 that it's about 1:15 your time? 20 A. Yes. 21 Q. Okay. Are you good continuing a little 22 bit more or would now be a good time to take a short 23 lunch break? 24 A. This would be a good time to take a short 25 lunch break for me if that's all right.</p>

<p style="text-align: right;">138</p> <p>1 Q. Okay. I want to be -- I want to be 2 respectful of time and I've been watching the 3 weather, Dr. Carnes. Depending on which website I 4 look at it's kind of unclear to me whether Madison 5 is just Snowmageddon or if things are okay. 6 A. Well, it's snowing outside but I'm in my 7 house so I'm good. 8 Q. Oh, okay. Good. Okay. All right. 9 A. I'm good. 10 Q. All right. So -- 11 A. It is beautiful though. It's just 12 gorgeous. It's really pretty. 13 Q. It's gorgeous? 14 MR. BRISCHETTO: We could have been there. 15 MS. THOMPSON: Well, it's gorgeous and 16 beautiful when you're tucked at home safe and sound; 17 right? 18 THE DEPONENT: That's true. 19 MS. THOMPSON: Okay. Maybe we could take 20 20 minutes. Does that -- 21 THE DEPONENT: Yeah, that's fine. 22 MS. THOMPSON: -- sound good? 23 THE DEPONENT: Or even 15. If you want to 24 shorten it, it's fine. 25 MS. THOMPSON: Okay.</p>	<p style="text-align: right;">140</p> <p>1 (third edition), Appendix H Quality appraisal 2 checklist for qualitative studies"? 3 A. Yes. 4 Q. Are you familiar with this document? And 5 I can kind of scroll through it for you. 6 A. Yeah. There are several checklists for 7 qualitative studies. I don't think this is the one 8 we used for our study, the one with Filut, et al., 9 but they're all similar. I believe we used a 10 different checklist but they're all kind of similar. 11 Yes. 12 Q. Okay. And would you agree that the 13 National Institute for Health and Clinical 14 Excellence is an esteemed organization? 15 A. Yes. 16 Q. Okay. So what I'd like you to do is let's 17 turn -- sorry, I'm so used to doing this in person 18 when we have paper. I'm going to go to page 214. 19 MS. THOMPSON: Mr. Brischetto, are you 20 able to get the documents via chat? I just want to 21 make sure you're also getting them. 22 MR. BRISCHETTO: I have it. Yes. 23 MS. THOMPSON: Okay, good. 24 BY MS. THOMPSON: 25 Q. All right. So Dr. Carnes, these</p>
<p style="text-align: right;">139</p> <p>1 MR. BRISCHETTO: Let's go 20. 2 THE DEPONENT: Twenty? Okay. 3 MS. THOMPSON: So yeah, and we'll be back. 4 THE DEPONENT: Great. Sounds good. 5 MR. BRISCHETTO: All right. 6 MS. THOMPSON: We'll be back. 7 THE VIDEOGRAPHER: Please stand by. The 8 time is 1:18 p.m., and we are off the record. 9 (WHEREUPON, a recess was taken.) 10 THE VIDEOGRAPHER: We are on the record. 11 The time is 1:46 p.m. 12 You may now proceed. 13 MS. THOMPSON: Thank you. 14 Dr. Carnes, I'm putting into the chat 15 Document D, which I would like to mark as Exhibit 6. 16 (WHEREUPON, Exhibit 6 was marked for 17 identification.) 18 BY MS. THOMPSON: 19 Q. Dr. Carnes, let me know when you have 20 access to the document. 21 A. Again, it just comes up as a save. Yeah, 22 I think it's best if you share it. Sorry. 23 Q. Oh, no problem. 24 Can you see on the screen, "Methods for 25 the development of NICE public health guidance</p>	<p style="text-align: right;">141</p> <p>1 checklists, which you describe as there are many 2 checklists, five, one of the questions for -- I 3 don't know if you would find this as a 4 recommendation is that the role of the researcher is 5 clearly described. 6 Can you read the highlighted portion? 7 A. I can read it or I can just acknowledge, 8 yes, this is an important part of any qualitative 9 research to acknowledge that you as the researcher 10 are evaluating the data through your own personal 11 lens. That's always a part of qualitative research. 12 Do you want me to still read it? 13 Q. No. 14 A. Okay. 15 Q. Because I think that your statement 16 captures what this document says. And if you agree 17 with that we don't need to have you read it. 18 In Exhibit 1, nowhere in your report do 19 you discuss how your possible biases or 20 preconceptions may have affected your analysis or 21 conclusions; correct? 22 A. Well, I wasn't asked to conduct a 23 qualitative research study of the materials I was 24 given. I was asked to render my opinion as an 25 expert on gender and race bias in academic medicine</p>

<p style="text-align: right;">142</p> <p>1 which I think are two very different roles.</p> <p>2 Q. So what do you view your --</p> <p>3 A. So my lens was as an expert on research</p> <p>4 and academic medicine. That was my lens. I guess I</p> <p>5 did acknowledge that when I provided all that</p> <p>6 upfront information of my expertise to provide -- to</p> <p>7 provide an evaluation of the case. I would say that</p> <p>8 was actually multiple paragraphs acknowledging the</p> <p>9 lens that I was viewing the data through.</p> <p>10 Q. Okay. In this highlighted portion of</p> <p>11 Exhibit 6, this NICE checklist says, "It is</p> <p>12 important that we can determine a clear audit trail</p> <p>13 from respondent all the way through to reporting why</p> <p>14 the author reported what they did report and that we</p> <p>15 can follow the reasoning from the data to the final</p> <p>16 analysis or theory."</p> <p>17 Did I read that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. Did you include a clear audit trail in</p> <p>20 Exhibit 1, your expert report, so that we know why</p> <p>21 you decided to emphasize some pieces of the record</p> <p>22 and not others?</p> <p>23 A. I was not asked to conduct a qualitative</p> <p>24 research study of the materials I was given, so I</p> <p>25 actually think this checklist is irrelevant. I was</p>	<p style="text-align: right;">144</p> <p>1 A. I did not comment on every single document</p> <p>2 I was given. That is true. I tried to pick out the</p> <p>3 ones that I thought were relevant.</p> <p>4 Q. Relevant to what?</p> <p>5 A. Relevant to showing that, in fact, Dr.</p> <p>6 Bala was a victim of gender bias and that it played</p> <p>7 out in exactly the way one would predict from 30</p> <p>8 years of experimental research examining gender bias</p> <p>9 in employment settings.</p> <p>10 Q. I think when I originally showed you</p> <p>11 Exhibit 6, this NICE checklist, you testified that</p> <p>12 researcher bias is something that should always be</p> <p>13 acknowledged; correct?</p> <p>14 A. In qualitative studies. Yes. It is not</p> <p>15 generally done in experimental studies because of</p> <p>16 the randomization process.</p> <p>17 MS. THOMPSON: Okay. And so just so we</p> <p>18 have it in the record, I'm going to put into the</p> <p>19 chat Document G as in George. And that will be</p> <p>20 marked as Exhibit 7.</p> <p>21 (WHEREUPON, Exhibit 7 was marked for</p> <p>22 identification.)</p> <p>23 BY MS. THOMPSON:</p> <p>24 Q. And I'll share it on my screen, Dr.</p> <p>25 Carnes, as well.</p>
<p style="text-align: right;">143</p> <p>1 asked based on my own research and my knowledge of</p> <p>2 the existing research to assess whether I thought</p> <p>3 gender and race bias had occurred in this case, so</p> <p>4 that's what I did. And I think in terms of an audit</p> <p>5 trail, I think I provided substantial supporting</p> <p>6 research data. I don't think I provided -- I don't</p> <p>7 think I once said based on my own experience. I</p> <p>8 think I cited my research or others to support the</p> <p>9 statements I made. And that could be considered an</p> <p>10 audit trail.</p> <p>11 Q. An audit trail that would identify for us</p> <p>12 or, yeah, would identify for us what information you</p> <p>13 decided not to highlight; is that your testimony?</p> <p>14 A. No. I believe I did a very thorough</p> <p>15 review of the literature. I did not just pick</p> <p>16 studies that show gender bias. It just happens that</p> <p>17 all the studies do show gender bias in academic</p> <p>18 medicine. So I pretty much picked all the studies.</p> <p>19 Q. I'm sorry, I spoke over you.</p> <p>20 A. No. No. Go ahead. My fault.</p> <p>21 Q. My question related to the factual records</p> <p>22 that you were provided by Dr. Bala's counsel. Your</p> <p>23 report does not include any information about what</p> <p>24 factual information you chose not to emphasize;</p> <p>25 correct?</p>	<p style="text-align: right;">145</p> <p>1 A. Thank you.</p> <p>2 Q. Oh, yeah.</p> <p>3 Dr. Carnes, so Exhibit 7 -- is that what I</p> <p>4 said?</p> <p>5 THE REPORTER: Yes.</p> <p>6 BY MS. THOMPSON:</p> <p>7 Q. Exhibit 7 is a 2010 article from the</p> <p>8 Journal of Women's Health entitled, "A Qualitative</p> <p>9 Study of Faculty Members' Views of Women Chairs" of</p> <p>10 which you're one of the co-authors; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you're familiar with the study and</p> <p>13 with the report; yes?</p> <p>14 A. Mm-hmm.</p> <p>15 THE REPORTER: I'm sorry, Dr. Carnes, was</p> <p>16 that a yes?</p> <p>17 THE DEPONENT: Oh, yes. Yes. I am</p> <p>18 familiar with the study. Yes. Carol Isaac was a</p> <p>19 post-doc working with me and she was a qualitative</p> <p>20 researcher. Yes.</p> <p>21 BY MS. THOMPSON:</p> <p>22 Q. We spoke a little bit about this earlier,</p> <p>23 Dr. Carnes. In this research paper, appropriately,</p> <p>24 there is a discussion of limitation related to the</p> <p>25 findings of this study; correct?</p>

<p style="text-align: right;">146</p> <p>1 A. Yes.</p> <p>2 Q. And that is a fairly standard and expected</p> <p>3 portion of qualitative study reports; is that</p> <p>4 accurate?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you and your fellow researchers</p> <p>7 wrote, "Qualitative research paradigms believe that</p> <p>8 the researcher is an important part of the research</p> <p>9 and that analysis is invariably and directly</p> <p>10 influenced by the researcher's perspectives. This</p> <p>11 is openly acknowledged as 'researcher bias.'"</p> <p>12 Did I read that correctly?</p> <p>13 A. Yes. Yes. I think we're saying the same</p> <p>14 thing as we said in the checklist.</p> <p>15 Q. Right.</p> <p>16 Is one of the concerns in qualitative</p> <p>17 research that relying on researchers to categorize</p> <p>18 or interpret things instead of just counting things</p> <p>19 in a more quantitative research study is that</p> <p>20 researchers' own beliefs and values might affect</p> <p>21 their interpretations better?</p> <p>22 A. Well, qualitative -- I mean, you're</p> <p>23 focusing a lot on qualitative studies. Qualitative</p> <p>24 studies are very limited in their generalizability.</p> <p>25 They're often used to explore human phenomenon that</p>	<p style="text-align: right;">148</p> <p>1 generalizability, it is widely known that</p> <p>2 qualitative research is not very generalizable.</p> <p>3 Q. And Dr. Carnes, is one of the concerns</p> <p>4 with qualitative research that researcher bias may</p> <p>5 impact how qualitative information is interpreted?</p> <p>6 A. Well, that is one concern. Other concerns</p> <p>7 are the sample size is not -- it's not a sample size</p> <p>8 where -- of like a probability sample where anybody</p> <p>9 in a certain population would have the ability to</p> <p>10 participate. If you select very carefully -- the</p> <p>11 analogy I was given when I started doing some</p> <p>12 qualitative research was if there was a fire on the</p> <p>13 block on a street and you wanted to know about that</p> <p>14 fire, would you take a random sample of people who</p> <p>15 were on that block or would you talk to the one</p> <p>16 person who witnessed the fire? And so in</p> <p>17 qualitative research you're actually trying</p> <p>18 specifically to get people who have experienced this</p> <p>19 phenomenon or who have biases so that they can</p> <p>20 explain what they've seen. And then you try as much</p> <p>21 as possible to then set yourself up for the</p> <p>22 experimental research question to actually see if</p> <p>23 what has been observed in a study really is in fact</p> <p>24 there.</p> <p>25 Q. Research bias, researcher bias in</p>
<p style="text-align: right;">147</p> <p>1 are of interest but can't, you know, a randomized</p> <p>2 controlled experiment has to control so many things.</p> <p>3 You usually don't start off with one. You might</p> <p>4 start off -- you might start off with anecdotes and</p> <p>5 then move to a qualitative study. The qualitative</p> <p>6 study then often provides a guidepost for the</p> <p>7 experimental study. So you're focusing a lot on</p> <p>8 qualitative studies. They're important, and I did</p> <p>9 pull some quotes from qualitative studies. But I</p> <p>10 think more relevant are the, I mean, hundreds of</p> <p>11 experimental studies, probably dozens within the</p> <p>12 context of academic medicine which are almost</p> <p>13 directly applicable to the Bala situation. I mean,</p> <p>14 really, they mimic it. The situation almost could</p> <p>15 be if you described it one of these experimental</p> <p>16 studies. You know, you say, you know, so-and-so was</p> <p>17 hired to be the only woman leading this highly male</p> <p>18 environment, an EP study, male or female, how do you</p> <p>19 evaluate her? I mean, it almost is an experimental</p> <p>20 study. So I mean, I'm glad you're interested in</p> <p>21 qualitative research. In my opinion it hasn't</p> <p>22 gotten enough play in academic medicine. In fact,</p> <p>23 it was hard even 15 years ago to get a qualitative</p> <p>24 study published in academic medicine. So I'm glad</p> <p>25 you're taking it seriously. But in terms of the</p>	<p style="text-align: right;">149</p> <p>1 qualitative studies is something that we need to</p> <p>2 acknowledge and be mindful of. Is that fair?</p> <p>3 A. That is fair. Yes.</p> <p>4 Q. Okay. And then going back to your example</p> <p>5 of -- I think what you were saying is the best</p> <p>6 person to talk to is the person who was there at the</p> <p>7 fire. Is that right?</p> <p>8 A. Right. Who has experienced the bias.</p> <p>9 Absolutely. And in fact, when we developed our</p> <p>10 first climate survey, which has been borrowed by</p> <p>11 many universities. We call it the Study of Faculty</p> <p>12 Work Life at the University of Wisconsin. It has</p> <p>13 been through eight waves. And when we developed</p> <p>14 that survey, we interviewed faculty and stuff. And</p> <p>15 of course, we reviewed the literature and</p> <p>16 interviewed people so that we could get the right</p> <p>17 research questions to get at what their experience</p> <p>18 had been. So qualitative research is very important</p> <p>19 but I think more relevant to this case are again the</p> <p>20 literally hundreds of experimental studies</p> <p>21 manipulating only gender in employment settings and</p> <p>22 what they have found.</p> <p>23 Q. Just to follow up on that, you did not</p> <p>24 speak to anyone at OHSU; correct?</p> <p>25 A. No. I mean, not about this. I served on</p>

<p style="text-align: right;">150</p> <p>1 an NIH panel with Sharon, on a council, NIH Council 2 with Sharon Anderson but that was way before this 3 happened. 4 Q. And did you disclose that previously to 5 Mr. Brischetto that you had personal experience with 6 Dr. Anderson? 7 A. Yeah, I think -- yes, I did tell him that 8 I knew her. I knew her back when she was chair, I 9 believe. But anyway, we served on a council but it 10 was before any of this happened. 11 Q. Okay. So I think we have established, and 12 again, taking out the word "survey," taking out the 13 word "research," you did not use any method for 14 coding the case documents in this case; correct? 15 A. I did not code any documents. But I would 16 say I used a systematic process in evaluating the 17 data that was put before me as I would in any data. 18 As I said, I read through the documents. I took 19 notes. I made notes to myself about relevant 20 research. I looked at that research. I read the 21 papers to see if indeed I thought they were 22 applicable. So I did have a systematic process in 23 reviewing the data I was given. I did not have a 24 code book. 25 Q. And there is no mention in your report of</p>	<p style="text-align: right;">152</p> <p>1 should have done something to prevent what happened 2 to Bala. 3 Q. So going back to Exhibit 1, your report, 4 and we went over this this morning. You stated that 5 you reviewed documents that were sent to you by Dr. 6 Bala's counsel; correct? 7 A. Yes. 8 Q. And but you did not review the entire -- 9 all documents that have been exchanged between the 10 parties or all of the court filings; is that fair? 11 A. That's probably fair. Yes. 12 Q. Okay. Did you request from Dr. Bala's 13 attorneys any additional documents that they had not 14 provided you to rely on? 15 A. I think I did ask for additional 16 evaluations from learners. 17 THE DEPONENT: Didn't I, Steve? I think I 18 did ask for some additional evaluations because I 19 wanted to assess how she was viewed by learners. 20 And as I recall, and again, it was two years ago, 21 because I recall then you did send me some 22 evaluations. I believe there was one from a female 23 cardiology fellow that was a very positive 24 evaluation. And then as I recall, you sent me her 25 ratings. The ratings of her teaching relative to the</p>
<p style="text-align: right;">151</p> <p>1 any evidence that would be inconsistent with your 2 conclusion that Dr. Bala was subjected to gender and 3 racial discrimination; correct? 4 A. No. There would not be anything. That's 5 what I was asked to evaluate. 6 Q. You were asked to provide an opinion that 7 she had been discriminated against because of her 8 gender and race? 9 A. Yes. And whether I thought OHSU had put 10 into place any kind of system, process, anything 11 that would mitigate the likelihood that this whole 12 thing would have happened given that it would be so 13 clearly predicted to have happened from not only the 14 available research but from surveys within 15 cardiology itself which particularly called out 16 discrimination. 17 You know, if you look at the American 18 College of Cardiology in itself evaluating its third 19 Professional Life Survey published in 2016 I believe 20 in the American College of Cardiology, their 21 headline is, you know, there's discrimination in 22 cardiology. Their opening paragraph describing that 23 report is that women and ethnic racial minority 24 cardiologists are victims of discrimination. So 25 they concluded that themselves. So I think OHSU</p>	<p style="text-align: right;">153</p> <p>1 ratings of other teachers and she was quite high as 2 I recall. So that was the one thing I did request 3 was additional evidence, additional evaluative 4 evidence of her teaching. And it was pretty 5 uniformly positive. 6 BY MS. THOMPSON: 7 Q. And why did you ask for that additional 8 information? 9 A. Well, because when you're in academic 10 medicine teaching is so important. I mean, it's 11 embedded in everything we do. And so I thought it 12 would be a reflection on just overall how she was 13 viewed. You know, clearly, we had a lot of stuff 14 from her supervisors. Some of the other staff 15 people in the EP suite. But I wanted to see how she 16 was viewed by a very other important sector within 17 academic medicine and that's the learners. 18 Q. And why did you want to have that 19 perspective? 20 A. Why did I want that perspective? Well, I 21 thought it would give me a fuller picture of the 22 validity, I guess, of some of the criticisms of her 23 superiors and others because I thought, we call it a 24 360 in medicine. It's a well-known way of 25 evaluating physicians. I don't know if it's in the</p>

<p style="text-align: right;">154</p> <p>1 legal practice as well. But in order to assess a 2 member of the team you like to get a 360 and see how 3 they're evaluated not just by one segment of that 4 team but by the whole team. And I just really felt 5 that looking at the learner evaluations would give 6 me a good sense of that. And I also would like to 7 say I think it shows how the whole field of academic 8 cardiology has lost a really important mentor, 9 teacher. You know, the fact that Bala is now, to my 10 understanding, practicing in just a clinical 11 community setting and is not in a position to 12 influence former training. She'll never become a 13 chair. She'll never be a division head. She has no 14 access to being a dean. I mean, this is a huge loss 15 to academic medicine because her learners really 16 thought she was good. 17 Q. Going back to your comment about receiving 18 360 reviews, and I'm familiar with that term, you 19 used the term "validity." Were you seeking 20 evaluations from others to have a 360 view to 21 validate whether or not some of the complaints in 22 the EP lab were justified or not? 23 A. Well, I didn't want to use the word 24 "validity." It's funny because I knew you would come 25 back and I was trying to think of a different word</p>	<p style="text-align: right;">156</p> <p>1 beneath her find that her -- was she like House? 2 You know, was her teaching style viewed as 3 difficult? But it wasn't at all. You know, people 4 thought she was -- or the learners thought that she 5 was very good. So anyway, it was just something I 6 wanted to see because I'm in academic medicine and 7 the learners' perspective is important to me. 8 Q. And Dr. Carnes, do you know whether you 9 received all evaluations of Dr. Bala while she was 10 employed by OHSU? 11 A. I don't. 12 Q. How much time did you spend reviewing the 13 case materials in this case? Not the studies but 14 the information -- 15 A. Oh, my God. 16 Q. -- that was provided to you? 17 A. Well, they tried to keep track of my hours 18 but honestly, I was embarrassed at how long it took 19 me. So I don't even think I put in all the hours 20 that it actually took me because I kept, you know, 21 I'd read it and then I'd go back to it and I'd think 22 -- so, I mean, I don't -- it was hours. I don't -- 23 I can't remember. But whatever I put in the number 24 of hours that I sent Steve, it was actually probably 25 double that. Because I was, you know, I was living</p>
<p style="text-align: right;">155</p> <p>1 than validity. But I think more the 360 evaluation, 2 you get a sense from the whole team. And I was 3 reluctant to use the word "validity," but another 4 one didn't come to mind. So I'm taking back my use 5 of the word "validity," and I'm putting back -- I 6 wanted to say the 360. 7 Can I rescind my use of the word 8 "validity"? 9 Q. And why did you -- and again, I think what 10 you stated was you wanted to see the 360. 11 A. Yes, I did. I did. 12 Q. So you could validate whether or not the 13 reports from people with whom she worked in the lab 14 were valid. Sorry to be circular. 15 A. Yeah. Well, I mean, validate because it 16 has other meanings. That's why I avoided the term 17 "validity." I guess I wanted to see if they aligned 18 with the criticisms, recognizing that learners can 19 be, obviously have the same kinds of gender biases. 20 You know, we all have the same biases. So, but I 21 was interested to see because a learner being in a 22 subordinate position, because gender is a stature 23 thing, too. But in the academic hierarchy she was 24 high stature regardless of her gender. So I wanted 25 to see with that status differential did those</p>	<p style="text-align: right;">157</p> <p>1 with it. I was thinking about it and, you know, you 2 put yourself in the person's position and you think 3 -- so I can't tell you. I don't know if it's 4 important how many hours but I will tell you I took 5 it very seriously because I've never been asked to 6 provide this kind of expert testimony before. I 7 knew a person's life was at stake so I took it very 8 seriously. I put many hours into it. I can't tell 9 you the exact number. 10 Q. And who's life was at stake? 11 A. Well, a career. I mean, her career. 12 Q. Did you consider the careers of others? 13 A. Well, it seemed to me that the others 14 actually did pretty well. I think one of her bosses 15 assumed her position, became head of the EP 16 cardiology. And they're all still there. Their 17 academic -- their academic advancement has not been 18 in any way limited by this case. But Bala -- 19 Q. Dr. Carnes -- 20 A. -- who was at University of Pennsylvania 21 and University of Chicago, a leader in the field, 22 she's practicing in a community program. 23 Q. Dr. Carnes, you mentioned that you took 24 notes as you were reviewing documents. Do you still 25 have those notes?</p>

<p style="text-align: right;">158</p> <p>1 A. No. They were just informal notes to 2 myself. And then once I had synthesized everything 3 into the report I just threw them away. 4 Q. So you destroyed your notes? 5 A. Well, I guess, I recycled them. 6 Q. Okay. And forgive me that some of these 7 questions may seem repetitive. I'm going to try to 8 move more quickly. 9 Did you ever observe Dr. Bala in the 10 workplace? 11 A. No. 12 Q. Do you believe that verbal descriptions of 13 past behaviors provide the same amount of 14 information as direct observation of behavior? 15 A. No. Different information. But no. It 16 provides somebody's interpretation of their 17 behavior. But no. 18 Q. What aspects of interactions can be lost 19 when we're just relying on the verbal descriptions 20 of past behaviors? 21 A. Well, I think as I pointed out in my 22 report, verbal descriptions are a means of 23 reinforcing stereotypes. So again, I'll come back to 24 -- I think -- I think dispositional or situational 25 attribution kind of explains it if you get into some</p>	<p style="text-align: right;">160</p> <p>1 documents that you were provided, in your report you 2 say that you "reviewed all the documents sent to me 3 by the law firm representing Dr. Bala and included 4 PDFs of copies of multiple emails, depositions, text 5 messages, and handwritten notes." 6 A. Mm-hmm. 7 Q. Did you encounter any factual evidence in 8 those materials that did not support Dr. Bala's 9 theory of the case? 10 A. No. 11 Q. So is it your testimony that all the 12 persons deposed in this case agreed that Dr. Bala's 13 sex or race contributed to her contract not being 14 reviewed -- renewed? Excuse me. 15 A. Well, they said -- they may have said it 16 didn't. I believe there were some statements that 17 said race or gender has nothing to do with it. But 18 again, if you look at the research, just as an 19 example, there are two studies by Uhlmann and Cohen 20 from Yale, that came out of Yale, that showed people 21 who explicitly thought they were unbiased actually 22 gave the most gender biased evaluation. That was in 23 a hiring setting. So the fact that they said -- 24 Q. I understand -- 25 A. The fact that they said race and gender</p>
<p style="text-align: right;">159</p> <p>1 of that research. So -- 2 Q. My question is different, Dr. Carnes. 3 A. Okay. 4 Q. My question is, what aspects of 5 interactions can be lost when we're just relying on 6 somebody's second-hand description of what happened? 7 A. Well, I guess mine was a long-winded way 8 of saying because in remembering it, it's much more 9 likely to be informed by these stereotypes. So I 10 was getting at it in a long-winded way but you tend 11 to remember things that align with a stereotype. 12 So if you find that a woman leader is 13 behaving in a counter stereotypic way that might 14 engender some negative feeling, when you remember it 15 you would describe it in the negative way because 16 you remember that stereotype. 17 Q. Dr. Carnes, as you reviewed documents in 18 this case what effort did you make to find evidence 19 that contradicted or did not support Dr. Bala's 20 theory in her case? 21 A. Well, you know, as I reviewed the research 22 I did look to see if there were any studies that 23 didn't find gender bias in academic medicine that 24 would be relevant. And I didn't find any. 25 Q. How about setting aside the studies, the</p>	<p style="text-align: right;">161</p> <p>1 wasn't involved doesn't mean race and gender wasn't 2 involved. I guess that's what I'm saying. 3 Q. And so it did not -- the fact that there 4 was evidence in the record that did not support Dr. 5 Bala's theory of the case, you did not consider 6 that? 7 A. Was there evidence that didn't support her 8 case? I guess I didn't see any. 9 MR. BRISCHETTO: I'm going to object to 10 the question. It's argumentative. 11 Go ahead. 12 THE DEPONENT: I didn't see any evidence 13 that didn't support her case. 14 BY MS. THOMPSON: 15 Q. Dr. Carnes, I believe you just testified 16 that you read in deposition transcripts that other 17 witnesses described reasons for nonrenewal of her 18 contract that were gender neutral. 19 A. No. I don't think I said that. I didn't 20 say that. Did I say that? 21 MR. BRISCHETTO: Misstates her testimony. 22 THE DEPONENT: No, I didn't say that. 23 BY MS. THOMPSON: 24 Q. Did you -- so Dr. Carnes, is it your 25 testimony that all of the persons who were deposed</p>

<p style="text-align: right;">162</p> <p>1 in this case agreed that Dr. Bala's sex or race 2 contributed to her contract not being renewed? 3 MR. BRISCHETTO: Objection. 4 Argumentative. 5 Go ahead. 6 THE DEPONENT: They explicitly did not -- 7 of course they're not going to say that. No. There 8 were people who said it didn't. But that doesn't 9 mean it didn't. I mean, there's no -- those two 10 things are not -- that's like apples and oranges. 11 But again, it replicates the research. Even surveys 12 of physicians, when they're shown to have no 13 explicit racial or gender bias -- 14 BY MS. THOMPSON: 15 Q. Dr. Carnes -- 16 A. -- they have it. 17 Q. Dr. Carnes, I apologize, and I apologize 18 to Ms. Byrd, I'm not trying to interrupt you. I 19 want to be mindful of time and I'm asking very 20 specific questions which sometimes can be a yes or 21 no and then you continue to provide additional 22 information about studies. And I'm not asking about 23 studies. I'm asking specifically about your report 24 and what's contained in your report. 25 A. Okay.</p>	<p style="text-align: right;">164</p> <p>1 provided you, which was all deposition transcripts, 2 the Second Amended Complaint, do you recall also 3 reviewing OHSU's answer to the complaint where it 4 denied allegations? 5 A. Yes. 6 Q. -- provided additional information? 7 A. Yes. 8 Q. Okay. And even acknowledging that you've 9 seen all of the things, is it still your sworn 10 testimony that you did not encounter any factual 11 disputes in those materials? 12 MR. BRISCHETTO: Objection. Misstates the 13 testimony. 14 Go ahead. 15 THE DEPONENT: So just because they said 16 it, I mean, the way I reviewed -- no. Their 17 statements did in no way contradict that there was 18 gender bias. So I guess -- I can't -- I don't know 19 if that's a no or a yes. I reviewed those. They 20 said there was no race or gender bias. So my 21 reading of the research, that doesn't mean there was 22 no race and gender bias. If anything it means it's 23 more likely there was bias. 24 BY MS. THOMPSON: 25 Q. Did you review Dr. Bala's deposition</p>
<p style="text-align: right;">163</p> <p>1 Q. To clarify the scope of my questions. 2 A. Okay. 3 Q. So specific to your report, your report 4 does not mention any evidence that does not support 5 Dr. Bala's theory of the case; correct? 6 A. Correct. 7 Q. Do you consider yourself a scientist? 8 A. I do. Physician-scientist. 9 Q. Are scientists supposed to consider only 10 evidence that supports a theory? 11 A. So I believe I fulfilled my role in 12 examining the data I was given and looking at the 13 full body of relevant research that would apply to 14 this case. As a scientist that's what I did. 15 Q. And I'm asking not about your specific 16 role. I'm asking generally, are scientists supposed 17 to consider only evidence that supports a theory? 18 A. No. 19 Q. In fact, it's not a reliable methodology 20 to ignore evidence that contradicts a theory; 21 correct? 22 A. That would be correct. And that's why I 23 did a full review of the research. 24 Q. So is it your testimony that in reviewing 25 all of the records that Dr. Bala's attorneys</p>	<p style="text-align: right;">165</p> <p>1 transcript? 2 A. I must have. Honestly, I can't remember. 3 I'm sure I did. I remember pieces of it. Was that 4 -- was that Exhibit 17? I know multiple times in 5 her communications said that she thought she was a 6 victim of gender bias. She actually rarely brought 7 up race which I thought was too bad. But gender 8 bias, in multiple emails she says it. So it's 9 probably in the deposition, too. But do I 10 specifically remember the deposition? I can't say 11 that I do. 12 I remember -- I remember I thought it was 13 -- 14 Q. There's no question. There's no question 15 pending. 16 A. Okay. 17 Q. One moment. 18 A. All right. I thought it was interesting 19 that despite the fact that she complained of gender 20 bias that the usual protocol that was supposed to be 21 followed by Straus wasn't followed. 22 Q. Who is Straus? 23 A. Not Straus, the HR person. That she even 24 acknowledge that she was supposed to move on -- 25 there was a hierarchy for reporting when somebody</p>

<p style="text-align: right;">166</p> <p>1 complained of gender bias that she didn't follow. 2 Q. And Dr. Carnes, again, you did not request 3 from Dr. Bala's attorneys to review all records in 4 this case; correct? 5 MR. BRISCHETTO: Objection. Asked and 6 answered. 7 BY MS. THOMPSON: 8 Q. Is that correct, Dr. Carnes? 9 A. I was assuming that I had been given all 10 of the relevant material. The only thing I asked 11 for were additional teaching evaluations. 12 Q. Do you have any opinion on whether or not 13 Dr. Bala is credible? 14 A. Yes. I think somebody who has trained at 15 Georgetown, University of Chicago, University of 16 Pennsylvania, which is like the fifth top medical 17 school in the country, and been recruited assuming 18 from a national pool to head an EP, complex EP 19 cardiology program, head and develop, I would say 20 yes, she's credible. By all the criteria that are 21 known in academic medicine she would be a credible 22 person. 23 Q. When I use the term "credible," I'm 24 referring to you believe that her testimony, for 25 example, during her deposition, credible meaning</p>	<p style="text-align: right;">168</p> <p>1 judge is consistently filtered through processes in 2 our interpersonal interactions, in our judgments of 3 people, these stereotypes really distort the way we 4 perceive things. So yes, I believe everybody 5 reported what they thought was their truth. I don't 6 know what that has to do with my error rate. 7 Q. But do you have an error rate for making 8 credibility determinations? 9 A. I have no idea what that means. 10 Q. Okay. 11 MS. THOMPSON: I'm posting to the chat 12 Document I. No, hold on. 13 I am posting to the chat Document J, which 14 is OHSU's Answer to the Second Amended Complaint, 15 which I will share on my screen. 16 THE REPORTER: And is this Exhibit 8? 17 MS. THOMPSON: This is Exhibit 8. Yes. 18 THE REPORTER: Thank you. 19 MS. THOMPSON: Thank you. 20 (WHEREUPON, Exhibit 8 was marked for 21 identification.) 22 BY MS. THOMPSON: 23 Q. Dr. Carnes, can you see my screen? 24 A. Yes. 25 Q. Okay. And does this -- are you familiar</p>
<p style="text-align: right;">167</p> <p>1 truthful, do you believe what Dr. Bala testified to 2 during her deposition? 3 A. Yes. I believe she would recount her 4 experiences truthfully. Yes. 5 Q. Okay. What is your error rate in making 6 credibility judgments? 7 A. I can't answer that. 8 Q. Why not? 9 A. I don't -- I don't even know what that 10 means. 11 Q. Do you know what an error rate is? 12 A. Well, I know what an error rate is but I 13 don't know how an error rate would apply to 14 credibility. 15 Q. Do you -- are you claiming to be an expert 16 in witness credibility? 17 A. Am I claiming to be a witness in expert 18 credibility? No. 19 Q. Is it your testimony that all the 20 witnesses in this case agreed with Dr. Bala's 21 account of the events at issue in all respects? 22 A. Well, of course not. Isn't that why we're 23 here, because of the filtering. Everybody reported 24 what their truth may have been. But because what we 25 experience, what we view, what we perceive, what we</p>	<p style="text-align: right;">169</p> <p>1 with this document? 2 A. It looks familiar but I can't say I know 3 it chapter and verse. 4 Q. Okay. But is this one of the documents 5 that you reviewed when you were reviewing case 6 materials? 7 A. If it was on that list then yes. 8 Q. Okay. I'm not going to go through the 9 entire document but you reviewed it? 10 A. Mm-hmm. 11 Q. Okay. Dr. Carnes, how many formal or 12 informal complaints were made about Dr. Bala's 13 behavior while she was working at OHSU? 14 A. How many? 15 Q. Yes. 16 A. Well, there were complaints from some of 17 the anesthesia staff. Complaints from the head of 18 anesthesia. I don't know how many. Four? But it 19 was done -- I mean, the way it was done it was sort 20 of -- 21 Q. I'm not asking about how it was done. 22 A. Yeah. 23 Q. I just wanted -- 24 A. Yeah. Well, the way it was done would be 25 predicted to exaggerate the number because, you</p>

<p style="text-align: right;">170</p> <p>1 know, if you're in a position of authority and you 2 ask somebody how is her behavior? She's, like I 3 showed in that figure, look at that figure again. 4 It shows the behavior results in heightened scrutiny 5 and that's exactly what happened. So I don't -- I 6 don't know how many. Four? I don't know. 7 Q. Okay. And the only sources of those 8 complaints that you can recall today are from 9 anesthesia? 10 A. Well, there was a lot of back and forth. 11 There was another nurse who complained. They got a 12 complaint from one of the -- I think it was a fourth 13 year anesthesia resident. I'm trying to remember 14 how many. Yeah, I think it was four. I don't 15 remember. 16 Q. Okay. Were any of the complaints made 17 about doctor's behavior in the work -- sorry, let me 18 restate that. 19 Were any complaints made about Dr. Bala's 20 behavior in the workplace before Dr. Bala began 21 working at OHSU? 22 A. I don't know. 23 Q. Were you provided any documents from Dr. 24 Bala's attorneys that showed complaints about Dr. 25 Bala's workplace behavior before she was employed at</p>	<p style="text-align: right;">172</p> <p>1 about Dr. Bala. That's what I'm trying to get to. 2 Who do you understand was complaining about Dr. 3 Bala? 4 A. I think some of the staff that worked with 5 her in EP. Anesthesia staff, maybe nursing staff 6 complained about her because she was trying to 7 improve patient care in -- 8 Q. I'm not asking why. 9 A. -- a mediocre program. 10 Q. I just want to know who. 11 A. Well, I think that was it. I think it was 12 the staff in the EP program. And then the head of 13 anesthesia because the anesthesia staff went and 14 complained to him. 15 Q. Are you aware of complaints by fellows? 16 A. Was there anything from the fellows? 17 There was one fellow who really liked working with 18 her. I don't -- I honestly don't recall if there 19 was a complaint from a fellow. 20 Q. Did you review any documents that 21 demonstrated that there complaints about Dr. Bala 22 from outside of OHSU while she was employed by OHSU? 23 A. No, I don't think so. 24 Q. You talked about a 360 review; right? 25 A. Mm-hmm.</p>
<p style="text-align: right;">171</p> <p>1 OHSU? 2 A. I don't think -- no. I don't think so. 3 Q. The complaints that you recall I think you 4 said from anesthesia staff, the head of anesthesia, 5 one nurse, and one anesthesia resident -- did I get 6 that right? 7 A. Well, I think so. I can't remember his 8 name. But then, you know, there was a lot of back 9 and forth. There was -- I think it was a retreat and 10 then there was a summary of things to improve for 11 Dr. Bala. And then she had a list of things to 12 improve. And most of the suggestions for her 13 improvement were really very personally, 14 behaviorally oriented. Her suggestions all were 15 about improving patient care, improving the system. 16 So -- 17 Q. Dr. Carnes, I'm asking -- 18 A. The complaints about her -- like many of 19 the things she suggested were called complaints by 20 her supervisor. So was that somebody complaining 21 about her or was that genderizing her 22 recommendations as complaints? 23 Q. My question is a little bit different, Dr. 24 Carnes. What I'm trying to understand from you is 25 your understanding of who was making complaints</p>	<p style="text-align: right;">173</p> <p>1 Q. If we're getting complaints from multiple 2 sources from within an organization and outside of 3 an organization, would you agree with me that the 4 constant factor, the constant like control factor 5 would be the person who's being complained about? 6 MR. BRISCHETTO: Objection. Vague. 7 THE DEPONENT: Yeah. It's very hard to 8 answer because the whole EP cardiology landscape is 9 very male tight. Only 7 percent of EP -- the lowest 10 percentage of any subspecialty like in internal 11 medicine. You know, geriatrics is like 50 percent. 12 EP cardiology, 7 percent women. So the whole 13 landscape of EP cardiology nationally would be set 14 up to evaluate a powerful woman, a woman leader 15 negatively. 16 BY MS. THOMPSON: 17 Q. Dr. Carnes, you work in academic medicine; 18 right? 19 A. Mm-hmm. 20 Q. And are you aware that Dr. Bala was 21 providing services not just in the EP lab but was 22 also servicing general cardiology? 23 A. Well, that would make sense. That's what 24 most cardiologists do. 25 Q. Right. So they're not just interacting</p>

<p style="text-align: right;">174</p> <p>1 with their little EP crew. They are often 2 interacting with all facets of a hospital. 3 A. Well, within cardiology. So EP cardiology 4 is a subspecialty. Subspecialty. But cardiology 5 within internal medicine has the lowest percentage 6 of women. It's only about 15 percent women. So 7 again, even if you broaden the landscape to all of 8 cardiology nationally, and again, I'm not making 9 this up. Their own report in 2016 said women and 10 ethnic racial minorities are subject to 11 discrimination and inequities within cardiology. So 12 that's well known. 13 Q. If there were complaints about Dr. Bala 14 that arose from folks who were not specifically tied 15 to cardiology, would that change your opinion in any 16 way? 17 A. Well, I would have to do critical 18 appraisal of that piece of data. 19 Q. And you're -- 20 A. You were criticizing me before for not 21 taking a systematic approach but that would be part 22 of my systematic approach. If I was given 23 additional data I would do the same kind of thing. 24 I would look. I would take notes on it. I would 25 look at it in the broader scheme of research and</p>	<p style="text-align: right;">176</p> <p>1 swimming in the same sea. So I'm not going to give 2 a simple yes answer to that. It's complicated. 3 BY MS. THOMPSON: 4 Q. It's complicated. And your answer also 5 cannot be complete if you are not provided all of 6 the information; correct? 7 A. Right. 8 Q. Are you aware, Dr. Carnes, that many 9 people brought complaints about Dr. Bala before she 10 was employed by OHSU? 11 A. I don't believe I was aware of that. But 12 that wasn't what I was asked to evaluate. I was 13 asked to evaluate the experience at OHSU. 14 Q. Would your opinion, however, be impacted 15 if you learned that there had been numerous and 16 extensive complaints about Dr. Bala's behavior -- 17 for example, by learners at the University of 18 Pennsylvania? 19 A. Well, I was asked to evaluate the 20 experience at OHSU. So I would have to not include 21 that data in my evaluation. 22 Q. Do you think that complaints about Dr. 23 Bala's behavior by multiple learners at the 24 University of Pennsylvania is not relevant to your 25 assessment of whether or not Dr. Bala experienced</p>
<p style="text-align: right;">175</p> <p>1 then form my opinion of it. 2 Q. And you don't recall being provided any 3 information from Dr. Bala's counsel related to 4 complaints from either OHSU employees or people 5 outside of OHSU about Dr. Bala's behavior; correct? 6 A. Correct. I'm recalling emails actually 7 from within OHSU, being concerned that she wasn't 8 given due process and being concerned that the 9 normal channels of evaluation were not being 10 followed. And -- 11 Q. Dr. Carnes, again, I really do not mean to 12 interrupt you. 13 A. No, no. Go ahead. I know we don't have 14 much time. 15 Q. Dr. Carnes, if multiple witnesses report 16 seeing the same thing, doesn't that make it more 17 likely that that thing is real? 18 MR. BRISCHETTO: Objection. Vague. 19 Go ahead. 20 THE DEPONENT: Yeah. Yeah. I appreciate 21 the objection because while it would seem like a 22 simple yes to that, because we all swim in the same 23 ocean and because many of the people involved in 24 this case also reported to these male leaders. So 25 if they all said the same thing, again, they're all</p>	<p style="text-align: right;">177</p> <p>1 gender discrimination or race discrimination at 2 OHSU? 3 A. Well, I mean, it would be a separate 4 question; right? I think I would have to be given 5 all of the information at the University of 6 Pennsylvania to systematically review in the same 7 way. I mean, who knows? Maybe it was a problem at 8 the University of Pennsylvania. So I can't just give 9 a quick answer to that. That was not in the 10 information I was given to review and that was not 11 the question I was asked to provide expert testimony 12 on. 13 Q. Dr. Carnes, so is it your testimony you 14 did not review any evaluations of Dr. Bala from the 15 University of Pennsylvania? 16 A. That is true. I did not. 17 Q. Okay. Did you review any documentation 18 from Dr. Bala's subsequent employer, the University 19 of Arizona -- 20 A. I do -- I do think -- 21 Q. -- after she left OHSU? 22 A. Yeah. I think when I was reviewing the 23 material that I was given to review there was 24 something from Arizona. Because I remember reading 25 it and thinking, oh, this is odd. This is not from</p>

<p style="text-align: right;">178</p> <p>1 OHSU. But I -- I remember just kind of glancing at 2 it and dismissing it because it wasn't from OHSU. 3 So yes, I did -- I did get that but I don't think I 4 really reviewed that in detail. Plus, I remember in 5 I think it must have been Dr. Bala's testimony that 6 she described how she had -- she was trying -- she 7 was seeking employment in other academic 8 institutions and the leaders at OHSU in EP 9 cardiology were kind of interceding and offers were 10 withdrawn. So that was another reason when I saw 11 the Arizona I just -- I didn't really pay any 12 attention to it. 13 Q. So you ignored certain evidence that was 14 in the record? 15 A. If it was -- if it was not from OHSU I 16 didn't really evaluate it in the same systematic 17 way. No. 18 MS. THOMPSON: Okay. I'd like to take two 19 minutes. Just a two minute break. I'll be right 20 back. 21 THE VIDEOGRAPHER: Okay. Please stand by. 22 The time is 2:42 p.m., and we are off the record. 23 (WHEREUPON, a recess was taken.) 24 THE VIDEOGRAPHER: We are on the record. 25 The time is 2:45 p.m.</p>	<p style="text-align: right;">180</p> <p>1 aware of, and we've established you're not aware of 2 all of the complaints about Dr. Bala's behavior; 3 correct? 4 MR. BRISCHETTO: Misstates the testimony. 5 Go ahead. 6 BY MS. THOMPSON: 7 Q. So is it your testimony that every 8 complaint about Dr. Bala's behavior that you were 9 made aware of was the product of bias? 10 A. Reinforced by the behaviors of those 11 involved. 12 Q. Okay. I'm not asking about whether or not 13 the bias was reinforced. My question is, is it your 14 testimony that every complaint that you're aware of 15 about Dr. Bala's behavior was the product of bias? 16 A. I would say yes. 17 Q. Okay. And so is it your assessment that 18 none of the complaints that you've been made aware 19 of have any validity or truth to them? 20 A. Well, I think in the experience of the 21 person reporting them they probably were true. And 22 this is where OHSU really let her down because they 23 -- 24 Q. I'm not asking -- 25 A. -- could have come in and mitigated a lot</p>
<p style="text-align: right;">179</p> <p>1 You may now proceed. 2 BY MS. THOMPSON: 3 Q. Dr. Carnes, I just want to confirm, is it 4 correct that you can only do a systematic analysis 5 of a situation when you have complete information? 6 A. Yes, I would say that's true. Or at least 7 a majority of the information. Or the relevant 8 information I guess. Yeah. 9 Q. Would you agree that all people have 10 biases of some type? 11 A. Absolutely. 12 Q. And do people differ in the strength and 13 content of those biases? 14 A. In the strength of them I would say yes. 15 In our culture, the content of the biases is often 16 pretty predictable because the major groups that 17 we're exposed to, societal stereotypic messages is 18 pretty similar. In fact, in that one study I cited 19 from Ghavami and Peplau, many people were from other 20 countries and they still were aware of the major 21 stereotypes in the U.S. So I guess the biases we 22 all hold, the content of them are pretty similar but 23 the strength would be different. Yeah. 24 Q. Okay. And is it your testimony that every 25 complaint about Dr. Bala's behavior that you're</p>	<p style="text-align: right;">181</p> <p>1 of that. You know, there's one study simply by 2 having somebody say I realize there aren't very many 3 women leaders in -- I think it was, yeah, mechanical 4 engineering -- simply making -- 5 Q. Dr. Carnes -- 6 A. -- that explicit. 7 Q. I'm sorry. Again, I do not mean to 8 interrupt you but I'm asking very specific 9 questions. 10 A. Okay. 11 Q. Did you conduct any investigation to 12 determine which complaints that you were made aware 13 of about Dr. Bala were valid or invalid? 14 A. I'm sure they were all valid to the people 15 reporting them. 16 Q. On page 1 of your report, this is Exhibit 17 1, and let me see if I can screenshare with you. 18 Can you see your report? 19 A. Yes. 20 Q. Okay. So on page 1 -- 21 A. Mm-hmm. 22 Q. Okay. 23 A. Yes. 24 Q. You write that you have, "No doubt that 25 Dr. Bala endured relentless sex and race</p>

<p style="text-align: right;">182</p> <p>1 discrimination."</p> <p>2 A. Mm-hmm.</p> <p>3 Q. Did I get that right?</p> <p>4 A. Yes.</p> <p>5 Q. Does that mean that you concluded that Dr.</p> <p>6 Bala was subjected to sex and/or race discrimination</p> <p>7 every day she worked at OHSU?</p> <p>8 A. I don't know about every day.</p> <p>9 Q. Okay.</p> <p>10 A. But it was certainly frequent.</p> <p>11 Q. Do you know when, and let me be clear on</p> <p>12 the record, we are not conceding, of course, that</p> <p>13 any discrimination took place but I'm referring to</p> <p>14 your report. You have -- your opinion is that there</p> <p>15 is no doubt that she endured relentless sex and race</p> <p>16 discrimination.</p> <p>17 So based on that, when did the gender</p> <p>18 discrimination begin?</p> <p>19 A. Well, I -- what, was she hired in January?</p> <p>20 I think the emails started, what, maybe six months</p> <p>21 after she was there.</p> <p>22 Q. What emails are you referring to?</p> <p>23 A. The complaint. The interactions in the EP</p> <p>24 lab, problems with anesthesia. If I'm recalling,</p> <p>25 was that about six months later? So maybe she was</p>	<p style="text-align: right;">184</p> <p>1 A. Whether they act on them or whether they</p> <p>2 acknowledge them because of the very tight alignment</p> <p>3 with an EP cardiologist with male gendered</p> <p>4 stereotypes it would be predicted that everybody</p> <p>5 would hold a bias against women, particularly</p> <p>6 powerful women, EP cardiologists, because it so</p> <p>7 violates those male gendered norms.</p> <p>8 Q. Okay. So your testimony is that every one</p> <p>9 -- every one of Dr. Bala's supervisors and coworkers</p> <p>10 held biases against female electrophysiologists?</p> <p>11 A. Well, not consciously. But yes, I think</p> <p>12 that they would all implicitly view the image of an</p> <p>13 EP cardiologist as male because only 7 percent of EP</p> <p>14 cardiologists are women. And as Glick himself,</p> <p>15 maybe he'll testify tomorrow, has published --</p> <p>16 Q. I don't want to talk about -- we don't</p> <p>17 need to talk about Dr. Glick --</p> <p>18 A. Well, his -- but once a field becomes 75</p> <p>19 percent of any gender then the assumption is that to</p> <p>20 perform in that field requires male gendered</p> <p>21 stereotypes. So yes, they would all hold biases</p> <p>22 against a female EP cardiologist, particularly one</p> <p>23 leading, in a leadership position. Yes. So yes,</p> <p>24 they all have biases.</p> <p>25 Q. What methodology are you relying on to</p>
<p style="text-align: right;">183</p> <p>1 in honeymoon period the first few months. I don't</p> <p>2 know. But certainly, there were months of her</p> <p>3 employment there where indeed it was pretty</p> <p>4 relentless.</p> <p>5 Q. So you do not know when gender</p> <p>6 discrimination began?</p> <p>7 A. No.</p> <p>8 Q. In what percentage of Dr. Bala's</p> <p>9 interactions with men at OHSU did sex discrimination</p> <p>10 occur?</p> <p>11 A. I have no idea.</p> <p>12 Q. In what percentage of Dr. Bala's</p> <p>13 interactions with women at OHSU did sex</p> <p>14 discrimination occur?</p> <p>15 A. I have no idea.</p> <p>16 Q. In what percentage of Dr. Bala's</p> <p>17 interactions with other workers at OHSU did race or</p> <p>18 ethnic discrimination occur?</p> <p>19 A. I have no idea.</p> <p>20 Q. How many of Dr. Bala's supervisors and</p> <p>21 coworkers hold biases against female</p> <p>22 electrophysiologists?</p> <p>23 A. Against? I would say all of them because</p> <p>24 of the very male typed role that it is.</p> <p>25 Q. Okay. All of them.</p>	<p style="text-align: right;">185</p> <p>1 state that all of Dr. Bala's supervisors and</p> <p>2 coworkers hold biases against female</p> <p>3 electrophysiologists --</p> <p>4 A. Well, again, I'm extrapolating -- oh.</p> <p>5 MR. BRISCHETTO: Objection. Assumes a</p> <p>6 fact -- assumes a fact not in evidence.</p> <p>7 Go ahead.</p> <p>8 THE DEPONENT: I'm just extrapolating as</p> <p>9 we said before from the existing research and also</p> <p>10 from the American College of Cardiology Professional</p> <p>11 Work Life survey which has gone through three waves.</p> <p>12 And all of them show that women cardiologists</p> <p>13 experience discrimination and that it is the</p> <p>14 procedural disciplines where women are particularly</p> <p>15 discriminated against.</p> <p>16 BY MS. THOMPSON:</p> <p>17 Q. Which is not what I asked about but I'll</p> <p>18 just --</p> <p>19 A. Well, I think one can extrapolate from</p> <p>20 that and say, yes, because of this, I mean, what</p> <p>21 would make OHSU cardiologists different from all</p> <p>22 other cardiologists?</p> <p>23 Q. Okay. So our testimony is that all</p> <p>24 cardiologists everywhere hold biases against females</p> <p>25 and that --</p>

<p style="text-align: right;">186</p> <p>1 A. In cardiology. As evidenced by their own 2 report. 3 Q. Based on the evidence of female physicians 4 self-reporting; correct? 5 A. And men. I mean, it was not just a survey 6 of women. It was a survey of men and women. 7 Q. Okay. 8 A. And it found women in cardiology reported 9 gender bias to a far greater extent than women 10 physicians in other specialties. 11 Q. How many of Dr. Bala's supervisors and 12 coworkers hold biases against people of East Indian 13 descent? 14 A. Well, again, if one can extrapolate from 15 research, these are widespread biases. And I would 16 have no reason to think that the physicians at OHSU 17 have somehow escaped the biases that are prevalent 18 throughout the U.S. and prevalent throughout 19 academic medicine. And documented by the American 20 College of Cardiology within cardiology. 21 Q. So you're just extrapolating from some 22 studies to conclude that everyone in OHSU's EP 23 department held biases against East Indian people? 24 A. Absolutely. 25 Q. Okay.</p>	<p style="text-align: right;">188</p> <p>1 A. Dislike being victims of behavior they 2 perceived as rude. Yes, I would say that's true. 3 Q. Okay. Now, I'm asking you how many. How 4 many -- 5 A. I would say all of them. Nobody likes to 6 be a victim of behavior that they perceive as rude. 7 Q. Regardless of whether the person who is 8 being rude is a male or a female, White, Black -- 9 A. That is true regardless. Right. Nobody 10 likes to -- 11 Q. Regardless of race, regardless of gender? 12 A. Right. Right. Nobody likes to be a 13 victim of what they perceive as rude. 14 Q. How many of Dr. Bala's coworkers dislike 15 being spoken down to by both male and female 16 doctors? 17 MR. BRISCHETTO: Objection. Improper 18 foundation. 19 Go ahead. 20 THE DEPONENT: Yes. I mean, it's, again, 21 it's perception. Nobody likes to be treated with 22 the perception that they're being put down, whatever 23 the term you used. But that perception could have 24 been mitigated if OHSU had taken proper steps. 25 BY MS. THOMPSON:</p>
<p style="text-align: right;">187</p> <p>1 A. Because that is what the research would 2 suggest. 3 Q. How many of Dr. Bala -- 4 A. But I don't think they were aware of them. 5 I don't think they were aware of these biases. 6 Q. Because they're unconscious? 7 A. Yes, because they're unconscious. 8 Q. How many of Dr. Bala's supervisors and 9 coworkers dislike being treated rudely by both male 10 and female physicians? 11 MR. BRISCHETTO: Objection. Vague. 12 Go ahead. 13 THE DEPONENT: Well, rude again is very 14 subjective. A statement by a woman might be 15 considered rude. 16 BY MS. THOMPSON: 17 Q. That's not what I'm asking. I'm asking -- 18 A. Yeah, but I don't -- 19 Q. I'm asking -- 20 A. Yeah. 21 Q. I'll re-read the question. 22 A. Okay. 23 Q. How many of Dr. Bala's supervisors and 24 coworkers dislike being treated rudely by both male 25 and female physicians?</p>	<p style="text-align: right;">189</p> <p>1 Q. What percentage of the complaints about 2 Dr. Bala that you're aware of, and we've established 3 you aren't aware of all complaints, what percentage 4 of the complaints that you're aware of about Dr. 5 Bala were motivated by gender bias? 6 MR. BRISCHETTO: Objection. Misstates the 7 testimony. Vague, ambiguous. 8 Go ahead. 9 THE DEPONENT: What percent of statements 10 were motivated by race and gender bias? 11 BY MS. THOMPSON: 12 Q. Well, let's stick with gender bias. What 13 percentage of the complaints that you're aware of 14 were motivated by gender bias? 15 A. What percent of the statements were 16 motivated by gender bias? Well, it snowballed, I 17 think as often happens. Maybe it started off a 18 smaller percent but by the end it was probably a 19 large percent. 20 Q. And I'm asking what percentage. 21 A. What percentage? I don't know. 22 Q. What percentage of complaints that you're 23 aware of about Dr. Bala were motivated by racial or 24 ethnic bias? 25 A. Well, I think there's - at the</p>

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<p>1 intersection of race and gender bias, you know, she</p> <p>2 looked so totally different from the --</p> <p>3 Q. That's not what I'm asking about, Doctor,</p> <p>4 please.</p> <p>5 A. Okay.</p> <p>6 Q. I'm asking you what percentage --</p> <p>7 A. Well, I don't know what percentage.</p> <p>8 Q. Okay.</p> <p>9 A. You can make that up yourself.</p> <p>10 Q. Dr. Carnes, what was the first date on</p> <p>11 which Dr. Bala reported any concern about her</p> <p>12 treatment at OHSU?</p> <p>13 A. I would have to go back and look at the</p> <p>14 date.</p> <p>15 Q. Were the persons who hired Dr. Bala the</p> <p>16 same persons who decided not to renew her contract</p> <p>17 at OHSU?</p> <p>18 A. That's my understanding.</p> <p>19 Q. Do you believe that the decision to hire</p> <p>20 Dr. Bala was influenced by Dr. Bala's gender?</p> <p>21 A. The decision to hire her? No. I think</p> <p>22 she was hired because she was at a top EP program in</p> <p>23 the country and they felt that she was capable of</p> <p>24 developing a top- notch program at OHSU.</p> <p>25 Q. Did you -- and again, you reviewed all the</p>	<p>1 might contact me and say this is happening to me.</p> <p>2 Do you have any research studies that would be</p> <p>3 useful? And I will give them the research. In my</p> <p>4 mind, I mean, it is true I advocate but I view pure</p> <p>5 advocacy more as somebody who has kind of a position</p> <p>6 whereas I really try to take an academic view, a</p> <p>7 research- based, an evidence-based approach to it.</p> <p>8 I don't know if that matters but it matters to me.</p> <p>9 Q. Okay.</p> <p>10 A. So yes, I have advocated but not in a pure</p> <p>11 advocacy role. More in evidence. Right?</p> <p>12 Q. Your research is focused on supporting --</p> <p>13 A. Yes.</p> <p>14 Q. -- inclusions that -- for a whole host of</p> <p>15 things.</p> <p>16 A. Right.</p> <p>17 Q. Related to women's health, related to</p> <p>18 retention of medical -- female medical students.</p> <p>19 A. Right.</p> <p>20 Q. Retention of minoritized --</p> <p>21 A. Right.</p> <p>22 Q. -- to use your term.</p> <p>23 A. Right. With evidence-based strategies to</p> <p>24 improve the system for everyone, not just women.</p> <p>25 Q. Speaking of leadership, and you keep -- I</p>
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<p>1 deposition testimony in this case. In your 30-plus</p> <p>2 years in this field you have been an advocate for</p> <p>3 and have been pushing for more women in medicine;</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And so do you believe that Dr. Bala's</p> <p>7 gender may have played a causative factor in her</p> <p>8 hiring at OHSU?</p> <p>9 A. Well, there is research that would suggest</p> <p>10 that. That the biases that sort of work against</p> <p>11 women on the way up, and this comes out of I think</p> <p>12 the business school at Duke University. Once they</p> <p>13 get to the top, and I guess one would argue she was</p> <p>14 pretty much at the top, those biases work in their</p> <p>15 favor. So it is possible that there was a positive</p> <p>16 bias because she was a woman to bring her to OHSU.</p> <p>17 It is possible. There would be research to support</p> <p>18 that.</p> <p>19 Q. And isn't part of the advocacy work that</p> <p>20 you do to help open doors for women in medicine?</p> <p>21 A. Yes. Although, you know, you have used</p> <p>22 the word "advocacy" a number of times. And I don't</p> <p>23 necessarily view myself in an advocacy role because</p> <p>24 more often than not what I have been consulted with</p> <p>25 is the knowledge of the research. So like a woman</p>	<p>1 think you've mentioned a couple times that Dr. Bala</p> <p>2 was at the top. On page 2 of your report you</p> <p>3 describe Dr. Bala as being placed into a leadership</p> <p>4 role.</p> <p>5 A. Mm-hmm.</p> <p>6 Q. Would you agree that Dr. Bala was hired</p> <p>7 into a leadership position by the same persons that</p> <p>8 did not renew her contract?</p> <p>9 A. Yes.</p> <p>10 Q. And would you agree that if these</p> <p>11 decisionmakers were subject to the racial and gender</p> <p>12 biases discussed in your report then they would not</p> <p>13 have hired Dr. Bala into this leadership position?</p> <p>14 A. No. I don't know --</p> <p>15 Q. Why not?</p> <p>16 A. -- whether her gender worked for or</p> <p>17 against her. But I think her level of competence in</p> <p>18 the hiring setting probably trumped any concerns</p> <p>19 about gender or race. Because she was coming from</p> <p>20 Penn which, you know, top five medical school.</p> <p>21 OHSU, 30. And so, you know, they wanted to bring</p> <p>22 their program up to Penn's. So I think -- I don't</p> <p>23 know what the discussions were. I don't know if</p> <p>24 gender was a positive factor, again, although</p> <p>25 research might support that it was. But I think her</p>

<p style="text-align: right;">194</p> <p>1 coming from Penn, having that kind of external 2 conferral of status probably trumped any concern 3 about gender or race. 4 Q. What do you base that opinion on? 5 A. The external conferral of status has been 6 shown in a number of studies to help women. 7 Q. I'm sorry. My question wasn't clear. 8 You just made a number of sweeping 9 statements about OHSU's motivations, why they may 10 have wanted to do this or that. You made a comment 11 about Penn's stature, its rank compared to OHSU's 12 rank. 13 A. Right. 14 Q. Do you have any information -- 15 A. On the rankings? Oh, yeah, the rankings 16 are -- 17 Q. I'm not asking about the rankings. I'm 18 asking about OHSU's motivation behind hiring Dr. 19 Bala. Do you have any information about that? 20 A. No. But you were asking me I thought -- 21 if I thought gender was a factor. And I was saying 22 I don't know whether it was. I thought I said that. 23 But what I think -- if it was a concern, plus or 24 minus, I would think the credentials that she 25 brought from Penn would have been the reason she was</p>	<p style="text-align: right;">196</p> <p>1 performance on the job should not have been taken 2 into account when deciding whether to renew her 3 contract? 4 A. Her performance on the job definitely 5 needed to be taken into account. Most of the 6 recommendations she made, although they were 7 initially criticized, were put into place. So I 8 would say her performance was actually pretty good. 9 Q. Dr. Carnes, do you recall how long Dr. 10 Bala was employed by OHSU? 11 A. Well, let's see. She came, what, in 12 January, was it 2015? And then she left, was it 13 June 2017? Was that right? I think that's right. 14 Q. So just for purposes of my question let's 15 assume two years of employment at OHSU. 16 A. Mm-hmm. 17 Q. Do you believe that the documents that you 18 received to review, as extensive as they were, do 19 you believe those documents represent two years' 20 worth of work and interactions that Dr. Bala had 21 with her coworkers at OHSU, with community doctors 22 outside of OHSU, with people within the hospital? 23 Do you believe that the number of documents that you 24 received and reviewed reflects her entire tenure -- 25 and I know tenure is not a good word to use in this</p>
<p style="text-align: right;">195</p> <p>1 hired into a leadership position. 2 Q. Dr. Carnes, would you agree that when the 3 hiring -- when the hiring decision was made -- so 4 when OHSU decided to hire Dr. Bala, did those 5 decisionmakers have more or less information about 6 Dr. Bala than when they decided not to renew her 7 contract? 8 A. Well, they would have more information 9 about her because she would have worked there for a 10 year. 11 Q. And is it your position that Dr. Bala's 12 performance on the job at OHSU should not have been 13 taken into account when deciding whether to renew 14 her contract? 15 A. That's really a difficult question because 16 obviously, if you have biased decision makers in 17 charge. I mean, yeah, I guess, yeah. I mean, they 18 had complete control. There wasn't a committee. 19 They had, you know, complete charge to hire and fire 20 which is, again, not what we recommend but, so yeah, 21 they could -- they could take whatever they wanted 22 and fire her. Yeah. They had that institutional 23 authority. 24 Q. Dr. Carnes, here's my question again. 25 Is your position that Dr. Bala's</p>	<p style="text-align: right;">197</p> <p>1 setting. But -- 2 A. No. They couldn't -- no, they couldn't -- 3 Q. -- you have to acknowledge you don't have 4 a complete -- 5 A. No, I'm sure I don't. Yeah. 6 Q. Okay. 7 A. I'm sure I don't. 8 Q. What expectation did those who hired Dr. 9 Bala have about how she would behave on the job, do 10 you know? 11 MR. BRISCHETTO: Objection. Calls for 12 speculation. 13 Go ahead. 14 THE DEPONENT: Well, she was hired to 15 build an EP program, one that mimicked the program 16 at Penn. So I am speculating that they would want 17 her behaviors to be such that that's what she did. 18 So even though they -- 19 BY MS. THOMPSON: 20 Q. But you don't know. But you don't know -- 21 A. -- blocked her -- 22 Q. You're just speculating? 23 A. I am totally speculating. 24 Q. Okay. 25 A. I think you asked me to speculate.</p>

<p style="text-align: right;">198</p> <p>1 Q. I didn't. That was Mr. Brischetto's 2 objection. 3 A. Oh, okay. I'm sorry. 4 Q. You just testified that she was hired to 5 mimic the program at the University of Pennsylvania. 6 Did I hear that correctly? 7 A. Yeah. That's my understanding. 8 Q. And where does that understanding come 9 from? 10 A. I thought there was a statement from one 11 of her bosses, Cigarroa or Kaul that they were 12 pleased that she was coming on board. She was at 13 one of the top-notch programs in the country and she 14 was certainly hired to lead and develop an EP 15 program at OHSU, so. 16 Q. Okay. But did you see anything at all 17 that suggested that OHSU wanted to mimic the 18 University of Penn program? 19 A. No. I didn't see that. 20 Q. Is it possible for someone to react 21 negatively to a female physician's behavior without 22 that reaction being the product of gender bias? 23 A. Yes. 24 Q. What reliable method did you use to 25 distinguish between biased and unbiased reactions to</p>	<p style="text-align: right;">200</p> <p>1 to distinguish between biased and unbiased reactions 2 by others to Dr. Bala's behavior? 3 MR. BRISCHETTO: Objection. The answer 4 was responsive and interrupted. 5 Go ahead. 6 THE DEPONENT: Well, I think it was, 7 again, the repetitive nature of the occurrences and 8 the fact that they aligned so directly with the 9 large body of experimental research. I think that 10 was my rationale for saying, yes, this is clearly 11 gender bias. 12 BY MS. THOMPSON: 13 Q. If a nurse feels insulted by a female 14 doctor who makes an insulting comment, should that 15 nurse not express that feeling to the physician? 16 MR. BRISCHETTO: Objection. Vague. 17 Go ahead. 18 THE DEPONENT: Well, I think it's a 19 complicated relationship between doctors and nurses. 20 There's been large literature on that. And as more 21 women have entered medical school there's growing 22 literature on interactions between nurses who are 23 mostly women and female physicians. And it's a 24 complicated reaction. But because they share one 25 low status position but not another in the medical</p>
<p style="text-align: right;">199</p> <p>1 Dr. Bala's behavior in this case? 2 A. I think it was the repeated behaviors and 3 the words that were used in emails that were 4 unnecessarily, you know, attacking of her. 5 Q. So what you are characterizing as a 6 reliable method to distinguish between biased and 7 unbiased reactions to Dr. Bala's behavior are the 8 words used? 9 A. Well, I guess just the pattern, the 10 repetitiveness. It wasn't just a single episode. 11 It was repeated. And the processes -- she was 12 undermined. Rather than support her, you know, it 13 was allowed that she be bypassed in the chain of 14 command. So there were just systems, issues which 15 happened -- 16 Q. That's not -- I'm not asking about -- 17 A. -- which allowed the gender bias to occur. 18 Q. And I'm sorry. I'm not asking you a 19 question about the environment in which something 20 may or may not have been allowed. What I'm asking 21 is, I think you already testified that someone can 22 react negatively to a female doctor and it's not 23 necessarily the product of gender bias; right? 24 A. Mm-hmm. Mm-hmm. 25 Q. Okay. So what reliable method did you use</p>	<p style="text-align: right;">201</p> <p>1 hierarchy. And I quoted a few papers -- 2 BY MS. THOMPSON: 3 Q. Dr. Carnes, I recognize -- 4 A. -- because the nursing -- 5 Q. I'm asking -- 6 A. Go ahead. Go ahead. 7 Q. -- a very different question. Please 8 listen to my question. 9 So you know, I have spent considerable 10 time with your report. I have spent considerable 11 time -- this is neither here nor there -- you know, 12 my undergrad degree was in sociology. I have done a 13 lot of -- I understand the work that you do, the 14 methodology, all of that. Okay? So I've read the 15 studies. I don't need you to continue to parrot the 16 results of studies. 17 What I need are answers to my very 18 specific questions because what I don't -- you don't 19 want, Mr. Brischetto doesn't want -- I don't want us 20 to run out of time because you're not answering the 21 questions because I don't want to have to go to our 22 judge in this case and ask to depose you for a 23 second day. I don't. I don't think you want that 24 either. 25 So here's my question again.</p>

<p style="text-align: right;">202</p> <p>1 A. Okay.</p> <p>2 Q. If a nurse feels insulted by a female</p> <p>3 physician who makes an insulting comment, should the</p> <p>4 nurse not express that feeling to the doctor?</p> <p>5 MR. BRISCHETTO: Objection. The response</p> <p>6 was responsive. And it's argumentative.</p> <p>7 Go ahead.</p> <p>8 THE DEPONENT: Sure. Yeah. Feedback is</p> <p>9 good.</p> <p>10 BY MS. THOMPSON:</p> <p>11 Q. So a nurse should express her feelings to</p> <p>12 the doctor?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. If supervisors are receiving</p> <p>15 complaints about the behavior of a female -- I'm</p> <p>16 going to use a term -- well, let me back up.</p> <p>17 If supervisors are receiving complaints</p> <p>18 about the behavior of the female</p> <p>19 electrophysiologist, should supervisors ignore those</p> <p>20 complaints because they might be the product of</p> <p>21 bias?</p> <p>22 A. They should view it as a systems issue.</p> <p>23 It should be treated like a near miss in surgery. I</p> <p>24 mean, this is a systems issue and they did not</p> <p>25 approach it that way.</p>	<p style="text-align: right;">204</p> <p>1 Q. So is it your testimony then that there</p> <p>2 can never be a complaint about a female doctor that</p> <p>3 is -- that should be addressed with the individual</p> <p>4 female doctor? That all complaints about female</p> <p>5 doctors are all related to systemic issues within a</p> <p>6 health system? Is that --</p> <p>7 MR. BRISCHETTO: Objection.</p> <p>8 BY MS. THOMPSON:</p> <p>9 Q. I don't think that's your testimony;</p> <p>10 correct?</p> <p>11 MR. BRISCHETTO: Objection. Misstates the</p> <p>12 testimony.</p> <p>13 Go ahead.</p> <p>14 THE DEPONENT: Yeah. I mean, no. You</p> <p>15 can't do an always or never. But when it's this</p> <p>16 consistent it's a systems issue.</p> <p>17 BY MS. THOMPSON:</p> <p>18 Q. So again, if supervisors are receiving</p> <p>19 complaints about the behavior of a female</p> <p>20 electrophysiologist, should supervisors ignore those</p> <p>21 complaints --</p> <p>22 A. No.</p> <p>23 Q. -- because they might be the product of</p> <p>24 bias?</p> <p>25 MR. BRISCHETTO: Continuing objection.</p>
<p style="text-align: right;">203</p> <p>1 Q. So your testimony is if a supervisor</p> <p>2 receives a complaint about a female physician, is it</p> <p>3 your testimony that supervisors should ignore those</p> <p>4 complaints because they could be the product of</p> <p>5 gender bias?</p> <p>6 MR. BRISCHETTO: Objection.</p> <p>7 THE DEPONENT: No. The supervisor should</p> <p>8 --</p> <p>9 MR. BRISCHETTO: Objection. Misstates the</p> <p>10 testimony and it's argumentative.</p> <p>11 Go ahead.</p> <p>12 THE DEPONENT: The supervisor should meet</p> <p>13 with the person and then meet with the person and</p> <p>14 the nurse that was making the complaint as one would</p> <p>15 do sort of a root cause analysis. Find out what</p> <p>16 happened. Then see if one can fix the system. That</p> <p>17 is, make sure the anesthesia residents were trained.</p> <p>18 That is, put somebody to cover the night</p> <p>19 consultations for EPs so when somebody is getting</p> <p>20 ready for a complex procedure they're not asked to</p> <p>21 staff the evening consults. You know, one needs to</p> <p>22 change --</p> <p>23 BY MS. THOMPSON:</p> <p>24 Q. Dr. Carnes --</p> <p>25 A. -- the system.</p>	<p style="text-align: right;">205</p> <p>1 Go ahead.</p> <p>2 THE DEPONENT: That's like did you beat</p> <p>3 your wife. They should address them because they</p> <p>4 might be the cause of bias, or they might not be.</p> <p>5 They need to address them either way.</p> <p>6 BY MS. THOMPSON:</p> <p>7 Q. Thank you.</p> <p>8 Is it possible for someone to react</p> <p>9 negatively to a minoritized physician's behavior</p> <p>10 without that reaction being the product of racial or</p> <p>11 ethnic bias?</p> <p>12 A. Yes.</p> <p>13 Q. I asked you this question earlier with</p> <p>14 respect to gender. What method did you use to</p> <p>15 distinguish between biased and unbiased reactions to</p> <p>16 Dr. Bala's behavior based on her race or ethnicity?</p> <p>17 MR. BRISCHETTO: Objection. Asked and</p> <p>18 answered a number of times over.</p> <p>19 Go ahead.</p> <p>20 THE DEPONENT: I mean, just, again,</p> <p>21 placing it in the context of existing research and</p> <p>22 existing data.</p> <p>23 BY MS. THOMPSON:</p> <p>24 Q. I previously asked you about gender bias.</p> <p>25 And now I'm asking you about racial or ethnic bias.</p>

<p style="text-align: right;">206</p> <p>1 MS. THOMPSON: Mr. Brischetto, just to be 2 clear, these are different questions. 3 BY MS. THOMPSON: 4 Q. If a nurse feels insulted by a non- 5 Caucasian physician who makes an insulting comment 6 should the nurse not express that feeling to the 7 doctor? 8 A. No, the nurse should. 9 Q. If a supervisor is -- if supervisors are 10 receiving complaints about the behavior of a non- 11 Caucasian electrophysiologist, should the 12 supervisors ignore those complaints because they 13 might be the product of racial or ethnic bias? 14 A. No. They shouldn't -- they shouldn't 15 ignore them. If they are the root of bias or if 16 they're not, they shouldn't ignore them either way. 17 Q. Why shouldn't they ignore them? 18 A. Because a team doesn't function well if 19 there's negative dynamics within the team. So if 20 you want the best patient care, if you want the best 21 outcome, and again, there is research on function of 22 teams in health care that would show, you know, you 23 want communication to be collegial. 24 Q. On page 4 of your report you write, "In 25 addition, as the de facto expert on high-risk EP</p>	<p style="text-align: right;">208</p> <p>1 Q. Okay. 2 A. Yeah. 3 Q. Did you ignore or discount the fact that 4 many, many women worked in the EP lab and were 5 involved in creating lab processes and protocols? 6 MR. BRISCHETTO: Objection. Misstates the 7 evidence. 8 Go ahead. 9 THE DEPONENT: She was brought in to 10 implement a program. So whether they were involved 11 in practices that were ongoing, she was supposed to 12 be there to implement and change practice, to 13 improve practice. 14 BY MS. THOMPSON: 15 Q. What I'm trying to get to is in your 16 report you say that her opinions differed from the 17 prevailing practices -- 18 A. Yeah. 19 Q. -- and opinions held by men. 20 A. Yes. 21 Q. What -- what evidence do you -- did you 22 review that demonstrated what male opinions were on 23 the prevailing practices? 24 A. Oh. Well, the prevailing practices were 25 implemented by Cigarroa and Henrikson. So the</p>
<p style="text-align: right;">207</p> <p>1 ablations, her opinions differed from the prevailing 2 practices and opinions held by men." 3 Do you recall writing that? 4 A. Yeah. 5 Q. What evidence did you have review to lead 6 you to that conclusion? 7 A. Well, she -- like, there was one email 8 that some of Bala's suggestions are good, some not 9 so good. She had many suggestions for how to 10 improve EP and was met with negative resistance for 11 many of them, although in the end many of her 12 suggestions were adopted. But -- 13 Q. So Doctor -- 14 A. -- I mean, you've asked me not to cite the 15 research but research shows when women's opinion 16 differs it's often used as evidence to show she 17 doesn't know what she's talking about. And it 18 seemed to me that the situation here exactly 19 replicated that Thomas and Hunt paper. 20 Q. And you've hit on the point that I'm 21 trying to get to which is you state that her 22 opinions differed from the prevailing practices and 23 opinions held by men. By men. 24 A. Well, the two men there. I was referring 25 to the men, Cigarroa and Henrikson. So yeah.</p>	<p style="text-align: right;">209</p> <p>1 prevailing practices that were there before she came 2 she wanted to change. For example, having dedicated 3 EP staff trained from anesthesia. Having some -- an 4 attending assigned to supervise the EP consultations 5 at night so that the person doing -- 6 Q. And I'm not asking about Dr. -- 7 A. All of those were in place by men. Her 8 opinions differed. She wanted to change the system. 9 I feel like I keep saying the same thing over and 10 over so we must just be missing each other. 11 Q. Okay. And going back to my question, did 12 you ignore or discount the fact that many women 13 worked in the lab and helped develop protocols and 14 procedures within the EP lab? 15 MR. BRISCHETTO: Objection. Assumes facts 16 not in evidence. 17 THE DEPONENT: The existing ones. The 18 existing procedures. Right. Okay. Yeah. But they 19 weren't in charge. They weren't in charge. They 20 weren't in the hierarchy. It was Cigarroa and Kaul 21 who were -- I mean, Henrikson and Cigarroa who were 22 in charge. So they were staff. Yes, there was a 23 nurse. There were many staff but the people in 24 charge were responsible for the way things were and 25 she was brought in to change them. So her opinions</p>

<p style="text-align: right;">210</p> <p>1 differed.</p> <p>2 BY MS. THOMPSON:</p> <p>3 Q. And I think this was a while ago so</p> <p>4 forgive me. But you haven't practiced surgery, you</p> <p>5 haven't practiced invasive procedures; correct?</p> <p>6 A. Yes.</p> <p>7 MR. BRISCHETTO: Objection. Asked and</p> <p>8 answered.</p> <p>9 BY MS. THOMPSON:</p> <p>10 Q. Okay. So you don't know, in fact, while</p> <p>11 somebody may have the title of being head of</p> <p>12 something, you don't know on the ground how nurses</p> <p>13 or lab managers, how their opinions factor into</p> <p>14 implementation of protocol and practices, do you?</p> <p>15 A. No. I'm only aware of the medical</p> <p>16 hierarchy which generally puts the physician at the</p> <p>17 top of that hierarchy.</p> <p>18 Q. All right. On page -- on pages 4 and 5 of</p> <p>19 your report you provide examples of conduct that</p> <p>20 supposedly excluded Dr. Bala and devalued her</p> <p>21 expertise.</p> <p>22 Do you recall that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. What criteria did you use to decide</p> <p>25 whether conduct or behavior devalued Dr. Bala's</p>	<p style="text-align: right;">212</p> <p>1 A. I do not.</p> <p>2 Q. How did you conclude that Dr. Henrikson's</p> <p>3 comment that Dr. Bala has lots of ideas, some good,</p> <p>4 some not so much, devalued her expertise?</p> <p>5 A. Well, I think that's a rather patronizing</p> <p>6 thing to say for somebody who has been brought in as</p> <p>7 the expert leader. I also think it was</p> <p>8 inappropriate that he made this statement to</p> <p>9 somebody who was below her in the chain of command.</p> <p>10 He was going -- it was an administrative reporting</p> <p>11 chain that shouldn't have happened.</p> <p>12 Q. So much of your -- I keep hearing</p> <p>13 hierarchy and chain of command. Are your opinions</p> <p>14 based on your notion of hierarchy and how teams</p> <p>15 should work at OHSU?</p> <p>16 A. No. I would say I don't know how things</p> <p>17 work at OHSU. But just the general functioning of</p> <p>18 teams and the general hierarchy in academic</p> <p>19 medicine. I guess that's what I'm giving my</p> <p>20 statements on.</p> <p>21 Q. Do you know whether Dr. Bala had lots of</p> <p>22 ideas related to the EP lab?</p> <p>23 A. Oh, yeah. She stated them repeatedly</p> <p>24 saying, you know, I think we should have this. I</p> <p>25 think we should have this. They had a retreat and</p>
<p style="text-align: right;">211</p> <p>1 expertise?</p> <p>2 A. Well, that one email for example. Some of</p> <p>3 Dr. Bala's ideas are good, some are not so good.</p> <p>4 Q. I'm not asking about the facts. I'm</p> <p>5 asking about what criteria did you, as a scientist,</p> <p>6 in forming an opinion based on reliable principles</p> <p>7 and methods, what criteria did you use to decide</p> <p>8 whether conduct in the examples that you gave</p> <p>9 devalued Dr. Bala's expertise.</p> <p>10 A. Well, I think just reviewing the text.</p> <p>11 Reviewing what happened. Reviewing the fact that,</p> <p>12 you know, she was no longer invited to the</p> <p>13 recruitment dinners. Reviewing the fact that the</p> <p>14 leaders allowed this breach in the chain of command.</p> <p>15 I mean, that should never happen in the</p> <p>16 organization. That's organizational change 101. If</p> <p>17 you are -- if you have a chain of command, if</p> <p>18 somebody in a subordinate position bypasses the</p> <p>19 chain of command that leader is supposed to send</p> <p>20 them back and then meet with all three if they need</p> <p>21 to. But consistently, they undermined her by</p> <p>22 allowing that to happen. That's just one thing.</p> <p>23 Q. Dr. Carnes, do you know whether Dr.</p> <p>24 Henrikson ever texted the staff about male or</p> <p>25 Caucasian physicians?</p>	<p style="text-align: right;">213</p> <p>1 she had lots of ideas for change, many of which</p> <p>2 wound up being implemented. And some of which made</p> <p>3 perfect sense. Some of which were triggered by near</p> <p>4 misses. You know, patient safety issues --</p> <p>5 Q. Dr. Carnes --</p> <p>6 A. -- often triggered that.</p> <p>7 Q. So you have no experience with</p> <p>8 electrophysiology; correct?</p> <p>9 A. No.</p> <p>10 MR. BRISCHETTO: Objection. Asked and</p> <p>11 answered.</p> <p>12 BY MS. THOMPSON:</p> <p>13 Q. You've never worked in an EP lab; correct?</p> <p>14 MR. BRISCHETTO: Same objection.</p> <p>15 THE DEPONENT: No.</p> <p>16 BY MS. THOMPSON:</p> <p>17 Q. How are you qualified to have an opinion</p> <p>18 about whether or not Dr. Bala's ideas were good ones</p> <p>19 or bad ones?</p> <p>20 A. Well, I know what a lethal dose of heparin</p> <p>21 is, and I know that that was a near miss. There</p> <p>22 were also a couple of near misses that she cited in</p> <p>23 terms of training within the EP lab.</p> <p>24 Q. I'm not asking about near misses. I'm</p> <p>25 asking about your qualification, your qualification</p>

<p style="text-align: right;">214</p> <p>1 as a geriatric specialist and someone who is a 2 scientific researcher to provide an opinion on 3 whether Dr. Bala's suggestions or ideas were good 4 ones or bad ones in an electrophysiology lab. 5 A. Well, don't forget I also have an adjunct 6 appointment in industrial and systems engineering. 7 And -- 8 Q. Does that -- 9 A. -- her ideas were exactly what one would 10 like to see put in place in a complex, dynamic 11 system like an EP lab. So no, I do not have 12 experience in an EP lab, but I have experience in 13 research about institutional change. I have 14 collaborated with industrial systems engineers. And 15 some of the near misses that occurred in that EP lab 16 she was trying to prevent from happening again with 17 her ideas about changing the current practices. 18 Q. Dr. Carnes, is it your opinion that Dr. 19 Henrikson should not be communicating directly with 20 staff? 21 A. Not when it involves them complaining 22 about Bala. No, I don't. I think that's 23 inappropriate. It undermines her supervisory 24 authority. 25 Q. Have you ever heard a man being described</p>	<p style="text-align: right;">216</p> <p>1 referring to previously is I was essentially asking 2 you some yes or no questions, and rather than you 3 just answering the question you would go into a 4 discussion of various studies. 5 Do you understand the distinction I'm 6 trying to make? 7 A. Yes. The professorial aspect of my job. 8 I apologize. 9 Q. I'm not -- I want -- like I said at the 10 beginning, I want your full testimony but I'm also 11 trying to keep us on track, recognizing -- 12 A. Yeah. No, I appreciate that. 13 Q. Okay. 14 A. I appreciate that. Long-winded professor. 15 MR. BRISCHETTO: Is this an appropriate 16 time for a 15-minute break? 17 MS. THOMPSON: Didn't we just come back 18 from lunch? 19 THE DEPONENT: Yeah, I think we're good. 20 I'm good. 21 MS. THOMPSON: Are you good, Dr. Carnes? 22 THE DEPONENT: Yep. 23 MR. BRISCHETTO: All right. My record is 24 that we've been going about an hour and 45 but maybe 25 I'm wrong.</p>
<p style="text-align: right;">215</p> <p>1 as having a meltdown? 2 A. I have not. 3 Q. Is it your -- 4 A. That to me is a gender term. 5 Q. Why? 6 A. Well, these gender imbalanced terms, like 7 being boss, abrasive, and I think having a meltdown, 8 is something that is much more likely to be leveled 9 at a woman for certain behavior than a man with 10 certain behaviors. 11 Q. Based on what? 12 A. Well, again, I would, I mean, based on, 13 again, the -- based on the training in -- the 14 sociolinguistic research. But also, again, I'd 15 refer to Shelley Correll's paper. You asked me not 16 to refer to studies but, you know, if you look at 17 her work, these gender terms, the kind -- meltdown 18 might not have been a specific word but these kinds 19 of terms were much more likely -- the gender 20 policing happened quite a lot. 21 Q. Okay. And Dr. Carnes, just to clarify, I 22 don't want you to -- you've said a couple times that 23 I've asked you not to cite to studies. If there are 24 studies with methodology that you relied upon in 25 reaching a conclusion feel free. But what I was</p>	<p style="text-align: right;">217</p> <p>1 All right, if you're good, Molly, fire 2 away. 3 THE DEPONENT: I'm good. I'm good. Let's 4 just keep going. 5 BY MS. THOMPSON: 6 Q. Okay. Is it your opinion, Dr. Carnes, 7 that junior faculty members should not feel free to 8 express their opinions about more senior faculty or 9 department leadership? 10 A. Of course not. 11 Q. You refer in your report to recruitment 12 dinners that Dr. Bala did not attend. Do you -- 13 A. Was not invited to attend. 14 Q. All right. Was not invited. 15 Do you know who was invited to attend 16 those dinners? 17 A. I would have to go back and look but I 18 think the statement somebody made was that generally 19 all members of the division were invited and she was 20 not invited. 21 Q. That's your recollection? 22 A. That's my recollection. Yes. 23 Q. So is it your testimony that you believe 24 that everyone within the department was invited to 25 these dinners except Dr. Bala?</p>

<p style="text-align: right;">218</p> <p>1 A. I don't know if it was department-wide or 2 division-wide or if it was just EP. But whatever it 3 was, it was a group of which she was a member. 4 Q. And your recollection is that every member 5 of this group was invited -- 6 A. Yes. 7 Q. -- except Dr. Bala? 8 A. Yes. 9 Q. Do you recall any explanation as to why 10 Dr. Bala was not invited to a particular dinner? 11 A. I do not recall. 12 Q. Do you know if anyone else was excluded or 13 not invited from any of these recruitment dinners? 14 A. I do not know that. 15 Q. Do you know if Dr. Bala was ever invited 16 to recruitment dinners? 17 A. I don't. 18 Q. Do you know how many -- do you know how 19 many recruitment dinners Dr. Bala attended? 20 A. I don't. 21 Q. Do you know how Dr. Bala behaved during 22 these recruitment dinners? 23 A. No. 24 Q. In your report on page 4, you include a 25 parenthetical comment, quote, and I've got it up on</p>	<p style="text-align: right;">220</p> <p>1 the other things you might say were, you know, 2 softer. The chain of command, some of these other 3 things. But to not be invited to the recruitment 4 dinners, I thought that was really quite a stark 5 example of otherizing. 6 Q. On page 4 of your report you describe the 7 importance of common identity messaging and you 8 provided some examples, "(e.g., 'we are all members 9 of the OHSU EP team.' 'We are all here to work 10 together as a team to provide safe and excellent 11 patient care.'" 12 Did I get that right? 13 A. Yep. 14 Q. And you concluded that OHSU contributed to 15 messages that reinforced that Dr. Bala was a member 16 of the "out group." 17 Was that your conclusion? 18 A. Yes. 19 Q. Okay. Do you believe that Dr. Bala 20 wearing a University of Pennsylvania fleece, coming 21 to OHSU wearing a UPenn logoed jacket on a daily 22 basis might signal to her coworkers that she did not 23 view herself as a member of the OHSU EP team? 24 A. Well, I don't know. That could be, I 25 suppose, added as -- if one is looking to mount</p>
<p style="text-align: right;">219</p> <p>1 my screen. "Rather than piling on to exclude Dr. 2 Bala (to the extent of not inviting her to 3 recruitment dinners!)" 4 A. Right. Mm-hmm. 5 Q. Okay. 6 A. Yes. 7 Q. Why did you use an exclamation point 8 there? 9 A. Well, because I thought it was just so -- 10 such a vivid example of her being excluded. I 11 discussed quite a bit, you know, the sort of in 12 group, out group and how she was otherized, which is 13 something described by women in academic medicine. 14 So I thought this was just a very clear example of 15 being otherized to not be invited to the dinners. 16 Q. Do you routinely use exclamation points 17 and parentheticals like these in your academic 18 research papers? 19 A. Oh, yeah. I'm a big user of exclamation 20 points. I like exclamation points. 21 Q. And the exclamation point is intended to 22 convey what? 23 A. Well, I guess it's just to draw attention 24 to it because I did think that this was, you know, a 25 clear example of otherizing which, you know, some of</p>	<p style="text-align: right;">221</p> <p>1 evidence of otherizing somebody I supposed somebody 2 could point to that. I know that that was one thing 3 that was requested of her, to stop wearing her Penn 4 sweatshirts. So they were asking her, I guess, to 5 mitigate some things that would otherize her. So I 6 suppose she could have contributed to that. But I 7 think more importantly were the absence of these 8 kinds of statements from the high authority male 9 figures who were known to the system who could have 10 definitely come in and helped make her -- make 11 others see her as a valued member of the team. And 12 they could have even, you know, made fun of the t- 13 shirt in a way to say that, you know, even though 14 she's a member of OHSU she continues to wear this t- 15 shirt just to remind us that she's from Penn. You 16 know, they could have made it -- they could have 17 even mitigated that behavior of othering rather than 18 to kind of amplify it. 19 Q. Do you think, Dr. Carnes, that others at 20 OHSU might interpret Dr. Bala's continued wearing of 21 Penn gear as a slight? As a way of demonstrating 22 that she was better than them because she came from 23 an Ivy League school? 24 A. Well, I think that's putting a lot of 25 assumptions on a sweatshirt. But again, as I said,</p>

<p style="text-align: right;">222</p> <p>1 they might have, if they were looking to mount 2 evidence to othereize her, they may have included 3 this, you know, oh, she has an East Coast 4 communication style. And look, she wears that Penn 5 sweatshirt. Rather than sort of, you know, making a 6 joke out of that sweatshirt, and again, reinforcing 7 the other. We've recruited her from a great program 8 which she keeps reminding us with her sweatshirt but 9 she's here now and we're all going to work together 10 to improve EP care at OHSU. To bring us up to the 11 highest quality. They should have done that 12 repeatedly. 13 Q. And so you're -- and I appreciate you have 14 done a good job of inserting into your answers what 15 OHSU in your opinion could have done. 16 My question is related to how others who 17 saw Dr. Bala every day wearing a UPenn fleece, do 18 you agree that others might interpret that as a 19 slight? 20 MR. BRISCHETTO: Objection. Asked and 21 answered. 22 Go ahead. 23 BY MS. THOMPSON: 24 Q. Yes or no? 25 A. I suppose they could have but I do not</p>	<p style="text-align: right;">224</p> <p>1 provide examples that you contend show that Dr. 2 Bala's behavior was treated differently than the 3 behavior of male colleagues. And you provide only 4 three examples. 5 Are you aware of any other instances of 6 alleged -- other differential treatment? Any other 7 examples? 8 A. Well, I think I pulled out the one that 9 really showed it the best. I think in the one 10 interview with I believe it was the -- was it the 11 nurse coordinator where she specifically -- she is 12 very specific about it. She says, you know, she 13 worked with some male physicians -- I forget where 14 it was, maybe it was Hopkins -- who were worse than 15 Dr. Bala but everybody ignored it because, you know, 16 they were men. 17 Q. Dr. Carnes, I have the portion of your 18 report that I'm referring to up on the screen. 19 A. Oh, okay. 20 Q. The example that you just described is not 21 part of this portion of your report. 22 A. Oh, okay. 23 Q. So in the first example you state that Dr. 24 Bala was harshly criticized for requesting that 25 staff be quiet.</p>
<p style="text-align: right;">223</p> <p>1 think in isolation they would have. 2 Q. On page 5 of your report, Dr. Carnes, you 3 write, "Everyone who lives in this society knows the 4 content of gender and race stereotypes -- even if 5 they do not consciously endorse them." 6 Did I get that right? 7 A. Yes. 8 Q. And I think that you've testified a few 9 times today, you would agree that gender 10 stereotypes, they're common knowledge? 11 A. Yes. 12 Q. That racial stereotypes are common 13 knowledge? 14 A. Yes. And I've cited papers to show that. 15 Q. And cultural stereotypes are common 16 knowledge? 17 A. Mm-hmm. 18 Q. Would you agree that the existence of 19 gender bias in our society is also common knowledge? 20 A. Yes. It should have been. Again, why 21 they should have done something. Yes. 22 Q. Would you agree that the existence of 23 racial bias in our society is common knowledge? 24 A. Yes. 25 Q. Okay. On page 6 of your report you</p>	<p style="text-align: right;">225</p> <p>1 A. Oh, yeah. Okay. Yeah. 2 Q. How did you determine that the criticism 3 was harsh? 4 A. Well, I think because it was referred to 5 so many times. 6 Q. Okay. How did you -- 7 A. A complaint was made about her. It was 8 referred to again and again. And here she was 9 trying to do a complex procedure and just asked for 10 quiet. 11 Q. How did you determine that male colleagues 12 behaved in the same way that Dr. Bala did when 13 requesting quiet? 14 A. I think she said that in one of her 15 statements. 16 Q. Right. And so you relied solely on Dr. 17 Bala's description? 18 A. Well, and the nurse. Maybe I didn't cite 19 it here but it's in one of the other examples that I 20 do cite relevant to her case which was that nurse 21 who talked about working at another institution and 22 she specifically said, you know, I saw men behave 23 even worse than Dr. Bala but, you know, basically -- 24 Q. That's not what she said but we'll get to 25 that --</p>

<p style="text-align: right;">226</p> <p>1 A. Okay.</p> <p>2 Q. -- because I do want to ask about that.</p> <p>3 Your second example, here you're</p> <p>4 describing an email to Dr. Kirsch. You don't</p> <p>5 mention any comparable behaviors by men; correct?</p> <p>6 A. Right.</p> <p>7 Q. Okay. Instead, you speculate that Dr.</p> <p>8 Kirsch would have reacted differently to a man but</p> <p>9 you have no way of knowing how Dr. Kirsch would have</p> <p>10 reacted to similar behavior by a man, do you?</p> <p>11 A. I do --</p> <p>12 MR. BRISCHETTO: Objection.</p> <p>13 Argumentative.</p> <p>14 THE DEPONENT: I do not.</p> <p>15 MR. BRISCHETTO: Misstates facts in the</p> <p>16 record.</p> <p>17 Go ahead.</p> <p>18 THE DEPONENT: Yeah, I don't know that.</p> <p>19 There was a statement someplace that Kirsch had</p> <p>20 actually made explicit negative gender remarks but,</p> <p>21 no, I don't know that.</p> <p>22 BY MS. THOMPSON:</p> <p>23 Q. In your third example you describe an</p> <p>24 interaction between Dr. Bala and a cardiology fellow</p> <p>25 as "perfectly reasonable."</p>	<p style="text-align: right;">228</p> <p>1 evaluated negatively for exhibiting identical</p> <p>2 behaviors that go unnoticed or receive praise from</p> <p>3 male leaders; correct?</p> <p>4 A. Yes. That is true.</p> <p>5 Q. Okay. So on page 7 you write, "Research</p> <p>6 shows that we are generally unaware of these</p> <p>7 implicit biases but that they can influence the way</p> <p>8 we process information, interact with, and judge</p> <p>9 people, respond emotionally to another person's</p> <p>10 behavior, and make decisions."</p> <p>11 Do you agree with that research?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. You go on to write that,</p> <p>14 "Stereotypes also lead us to implicitly judge how</p> <p>15 men and women 'should not' behave." Correct?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. "Even if we consciously disavow these</p> <p>18 beliefs."</p> <p>19 A. Mm-hmm.</p> <p>20 Q. So we've, I think, established today that</p> <p>21 people hold unconscious biases that they're not even</p> <p>22 aware of.</p> <p>23 Is that fair?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And in fact, people may hold</p>
<p style="text-align: right;">227</p> <p>1 A. Mm-hmm.</p> <p>2 Q. Again, you weren't present for this</p> <p>3 interaction; correct?</p> <p>4 A. I was not present for the interaction --</p> <p>5 Q. And you have no idea --</p> <p>6 A. -- but she was trying to focus on the --</p> <p>7 preparing for a complex case.</p> <p>8 Q. You have no idea how Dr. Bala actually</p> <p>9 behaved during that procedure, do you?</p> <p>10 A. No, but I thought it was really a positive</p> <p>11 thing that recognizing this was an issue. She</p> <p>12 requested that there be an attending to cover night</p> <p>13 EP consults and that that actually wound up</p> <p>14 happening.</p> <p>15 Q. In your third example you also contain no</p> <p>16 comparison to how men in a similar position as Dr.</p> <p>17 Bala were treated. So how did the EP fellow who</p> <p>18 wrote the letter to Dr. Cigarroa react to male</p> <p>19 physicians?</p> <p>20 A. Yeah, I don't know.</p> <p>21 Q. So pages 6 through 10 of your report,</p> <p>22 which you have a copy in front of you -- I believe</p> <p>23 that was the first exhibit of the day that you were</p> <p>24 able to download -- you discuss research showing</p> <p>25 that female leaders in predominantly male fields are</p>	<p style="text-align: right;">229</p> <p>1 unconscious biases that may be completely opposite</p> <p>2 to what they believe in; right?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. You cited for yourself that you</p> <p>5 consistently show a pro-male leadership bias in your</p> <p>6 report.</p> <p>7 A. Mm-hmm.</p> <p>8 Q. And it's on your very sensitive CV in all</p> <p>9 of the work that you've done to advance women in</p> <p>10 medicine.</p> <p>11 Am I safe to assume that you wish that you</p> <p>12 wish that your biases were -- your last 30 years of</p> <p>13 your career has been to demonstrate that female</p> <p>14 leaders are just as effective, if not more</p> <p>15 effective?</p> <p>16 A. But we know, I mean, the research does</p> <p>17 show that. But no, I think that you just accept that</p> <p>18 living in this society -- and then you have to</p> <p>19 implement what I think I referred to there is, you</p> <p>20 know, motivated self-regulation. You know,</p> <p>21 recognizing you have these biases and practicing</p> <p>22 that. Or in your field, judicial reasoning,</p> <p>23 intuitive override they call it in your field.</p> <p>24 Yeah.</p> <p>25 Q. On page 7, you also write, "The small</p>

<p style="text-align: right;">230</p> <p>1 group functioning in the EP suite with Dr. Bala as 2 leader of the team essentially replicates." And 3 you're talking about a 1990 and 2005 study. And I 4 can get to page 7. 5 A. Yeah, that was the -- that's the Butler 6 and Geis. Yeah. 7 Q. Butler and Geis. 8 A. Mm-hmm. 9 Q. And then Sabine Koch. 10 A. Sabine Koch. Yep. Mm-hmm. 11 Q. All right. And you wrote, "The small 12 group functioning in the EP suite with Dr. Bala as 13 leader of the team essentially replicates this 14 study." 15 A. Mm-hmm. 16 Q. What reliable method or principle did you 17 use to make that conclusion? 18 A. Well, I think I stated it here. It was -- 19 that's exactly the kind of study they used. They 20 took small groups of people. They had a trained 21 actor, scripted, to come in and be either a male or 22 female leader. And then they had people code the 23 nonverbal behaviors of the participants. And they 24 also surveyed them afterwards. And when the leader 25 was a male they had positive, head nodding, you</p>	<p style="text-align: right;">232</p> <p>1 within the EP suite with regard to Dr. Bala? 2 A. Well, and again, that's the 3 generalizability. You're never going to have the 4 exact same conditions that you would have in an 5 experimental study. But generalizing, yes, I think 6 the EP suite as close as any experiment could come 7 is to that Butler and Geis one. 8 Q. And you don't know -- you don't know that 9 Dr. Bala used the same language or had the same 10 demeanor as males in the EP suite, do you? 11 A. No. 12 Q. Okay. So you -- okay. So do you want to 13 walk back what you wrote in your report? Because 14 you just testified that you can make generalizations 15 but here you write that "The small group functioning 16 in the EP suite with Dr. Bala as leader of the team 17 essentially replicates this study." 18 A. Yes. I think that it essentially does. 19 It doesn't have -- 20 MR. BRISCHETTO: Before -- before -- 21 before you go on, Dr. Carnes. 22 THE DEPONENT: -- the script. 23 MR. BRISCHETTO: Objection. Misstates the 24 testimony. And compound question. 25 Go ahead.</p>
<p style="text-align: right;">231</p> <p>1 know, good things. And when the identically 2 behaving leader was a female they were grimacing. 3 They were not, you know, shaking their head no. And 4 probably totally unaware of it. But I thought this 5 study was very -- these studies were very relevant 6 because, again, it was a small team, male versus 7 female leader and one could say that is highly 8 relevant. 9 Q. And Dr. Carnes, you started to answer some 10 of my next questions. But you just testified that 11 in these studies that you describe there were male 12 and female actors who were given scripts; correct? 13 A. Mm-hmm. 14 Q. And part of this type of research, the 15 reason that we provide scripts to people who are 16 playing roles is to control; right? For variance 17 and what is said; right? So that the results related 18 to gender may be more relied upon; right? 19 A. Yeah. Because that's the only variable 20 that's changed. So then one can say with 21 considerable confidence this negative evaluation of 22 the leader was due to her being a female leader. 23 Q. Okay. So how do you -- and you're saying 24 that this essentially replicates a study. But how 25 do you know what was said in the procedure rooms or</p>	<p style="text-align: right;">233</p> <p>1 BY MS. THOMPSON: 2 Q. Go ahead. 3 A. I think it does essentially replicate that 4 study. As much as you're ever going to have an 5 experimental study being generalizable. 6 Q. Okay. But you don't know what was said in 7 the procedure rooms or in the EP suite; correct? 8 A. No. 9 Q. Okay. 10 A. All you can assume is that it was 11 directive leadership because that's the kind of 12 communication that would be the most effective in 13 that kind of setting. 14 Q. Okay. On page 8 you cite to a 2004 15 article that found male and female employees deemed 16 more likeable. Sorry, let me restate that. 17 On page 8 of your report you cite to a 18 2004 article that found male and female employees 19 were deemed more likeable and were evaluated more 20 favorably than those deemed unlikeable. 21 A. Yes, that's true. 22 Q. But only women were deemed unlikeable for 23 being competent in their job. 24 Did I get that right? 25 A. Yep, that's true from Heilman.</p>

<p style="text-align: right;">234</p> <p>1 Q. Okay. In a 2010 study, in fact, this was 2 Exhibit 7 that you helped author with Carol Isaac, 3 your study found that female department chairs were 4 praised over prior male leadership; correct? 5 A. Mm-hmm. 6 Q. And that study found that these female 7 department chairs were praised for being direct and 8 not afraid of confrontation; correct? 9 A. Mm-hmm. 10 Q. And didn't that 2010 study also conclude 11 that questioning the competency of female leaders 12 had significantly changed in academic medicine? 13 A. So I think there's a lot of different 14 facets of what you're stating. First of all, that 15 was a qualitative study of seven chairs. And as I 16 think we both agreed, qualitative studies are quite 17 limited in their generalizability. And these were 18 relatively new women chairs that had taken over 19 after disastrous male chairs had been there. So it 20 was a very specific setting. Very hard to 21 generalize. 22 But in terms of competence, yes, I think 23 there is an acknowledgement that women can be very 24 competent. But that doesn't mean they're likeable. 25 That's where Heilman's work I think again is so</p>	<p style="text-align: right;">236</p> <p>1 these female department chairs as being positive 2 attributes were the fact that these women were 3 direct, they were transparent, they were not afraid 4 of confrontation; correct? 5 A. As I recall that is true. But it was 6 quite a site and time-specific qualitative study. I 7 would really be careful with generalizing across 8 other sites. But yes, that is true. 9 Q. On page 9 of your report you go on to 10 write, "Being the most technically demanding, 11 highest paid, and prestigious subspecialty within 12 cardiology with the lowest percentage of women, 13 assumptions about EP doctors would be predicted to 14 be strongly male-typed." 15 Did I get that right? 16 A. Yep. 17 Q. You then conclude, "Dr. Bala, a woman and 18 a woman of color in an extraordinarily White and 19 male profession, will be viewed as not fitting 20 regardless of her behavior." 21 Did I get that right? 22 A. That is true. 23 Q. And that is your opinion that -- 24 A. That is, yeah. 25 Q. Regardless?</p>
<p style="text-align: right;">235</p> <p>1 relevant. Because identically credentialed men and 2 women may be viewed as comparably competent. But 3 being viewed as competent, there was an assumption, 4 particularly in leadership roles, that the competent 5 women with identical credentials would be less 6 likeable than the male leaders, more interpersonally 7 hostile, harder to work for. So there's already 8 this assumption that women leaders are less 9 likeable. 10 Q. But there's also competing literature 11 authored by you in 2010 that did find in a 12 qualitative review, right, that female leaders were 13 viewed more favorably. They were liked more than 14 the prior male department chairs; right? 15 MR. BRISCHETTO: Objection. 16 THE DEPONENT: In that -- in that -- 17 MR. BRISCHETTO: Asked and answered. 18 THE DEPONENT: -- small qualitative study. 19 MR. BRISCHETTO: Argumentative. 20 THE DEPONENT: Yeah. Small qualitative 21 study at the University of Wisconsin. 22 BY MS. THOMPSON: 23 Q. Yes. And, in fact, some of the attributes 24 that were assigned to these female department 25 chairs, some of the attributes that were assigned to</p>	<p style="text-align: right;">237</p> <p>1 A. Based on my review of the literature. 2 Yes. 3 Q. Okay. Regardless of her behavior, she 4 would never -- she would not fit in? 5 A. Unless OHSU had an evidence-based specific 6 strategy for helping her fit in. 7 Q. Okay. Do you know what the gender makeup 8 of OHSU's cardiology department was at the time Dr. 9 Bala was employed? 10 A. I thought there was one statement that 11 said she was the only woman in EP but I don't know. 12 Or if I did know, I don't remember. 13 Q. And my question is a little different. 14 Do you know what the gender makeup of 15 OHSU's cardiology department was at the time Dr. 16 Bala was employed? 17 A. No. 18 Q. Do you know the gender makeup of the 19 Knight Cardiovascular Institute at the time Dr. Bala 20 was employed? 21 A. No. 22 Q. Do you know any of the races or 23 ethnicities of any of the persons involved in this 24 case other than Dr. Bala? 25 A. Well, that Kaul, Cigarroa, Henrikson,</p>

<p style="text-align: right;">238</p> <p>1 Kirsch were men, White. Actually, I'm assuming they 2 were White. I do not know if they were White. 3 Q. So you do not know -- let me ask you the 4 question again. Do you know any of the races or 5 ethnicities of any of the persons involved in this 6 case other than Dr. Bala? 7 A. No, I don't, actually. That was probably 8 my own -- my own assumption was that they were 9 White. I acknowledge that. 10 Q. What reliable principle or methodology did 11 you use to come to the conclusion that regardless of 12 her behavior, Dr. Bala would not have fit in at 13 OHSU? 14 A. I think I stated that. Because she was 15 female and she was Asian-Indian. 16 Q. Okay. On pages 9 and 10 of your report 17 you discuss supposed examples of this phenomena at 18 work. Is that correct? 19 A. Yes. 20 Q. Okay. And only one of these examples, 21 Example 5 on page 10. And this is the email that I 22 think you were referring to earlier. 23 A. Yes. Yes. This is it. 24 Q. Do you state that a male surgeon engaged 25 in the same behavior as Dr. Bala was evaluated</p>	<p style="text-align: right;">240</p> <p>1 with little tolerance for incompetence, the behavior 2 was experienced as demeaning and belittling. Yes. 3 Q. Do you know that Ms. Barton actually had 4 much more experience working with the male surgeon 5 than she did with Dr. Bala? Do you know that? 6 A. No. 7 Q. How do you know that the male doctor 8 described by Ms. Barton behaved the same way as Dr. 9 Bala knew of Ms. Barton's interactions with Dr. 10 Bala? 11 A. I don't know that. 12 Q. For your other examples, what evidence do 13 you have that male physicians engaged in the same 14 conduct as Dr. Bala but were evaluated differently? 15 A. I just would take you back to that figure 16 that I put. And again, synthesizing much of the 17 research that the same exact behavior, the same 18 credentials are evaluated differently when they're 19 enacted by a male or female, particularly in a 20 leadership position. 21 Q. My question is a little. For these other 22 examples that you list, and you've got I think 1 23 through 10 -- let's see, 1 through 8. 24 A. Mm-hmm. What evidence do you have that 25 male physicians engaged in the same conduct as Dr.</p>
<p style="text-align: right;">239</p> <p>1 differently? 2 A. I think it would be. Yes. 3 Q. My question is, did you write that in your 4 report? 5 A. That -- 6 Q. And I have it up on the screen. 7 A. That Dr. Bala's behaviors, if they had 8 been engaged in by a White man would have been 9 interpreted differently, is that what you're asking? 10 I do believe that. 11 Q. Okay. But is it in your report? 12 A. I think it is. 13 Q. I'm focused on -- I'll highlight it for 14 you. Sub 5. 15 A. Yeah. Describe a male surgeon she worked 16 with which she perceived the same manner as Dr. 17 Bala. Behaviors were reviewed and interpreted 18 differently through a gender lens. She described 19 how she excused the same behavior in a man. I mean, 20 she brought up the fact that it was a male 21 physician. That she excused the behavior because 22 he's an extremely skilled surgeon with zero 23 tolerance for incompetence. If he was angered, he 24 merely expected us all to perform to our highest 25 level. But Dr. Bala, an extremely skilled physician</p>	<p style="text-align: right;">241</p> <p>1 Bala that were evaluated differently? 2 MR. BRISCHETTO: Objection. Asked and 3 answered. 4 Go ahead. 5 THE DEPONENT: Yeah. I guess I feel like 6 I've answered that question. 7 BY MS. THOMPSON: 8 Q. You didn't. 9 Do you have any evidence about how male 10 physicians engaged in the EP lab? 11 MR. BRISCHETTO: Objection. Asked and 12 answered. 13 Go ahead. 14 THE DEPONENT: Oh, because the other 15 physician wasn't in the EP lab. Is that the 16 problem? That she's talking about a male physician 17 at another institution? Is that the problem? 18 BY MS. THOMPSON: 19 Q. I'm not saying there's a problem or not, 20 Dr. Carnes. I'm here to understand from you how you 21 reached your conclusion. So I'm not here to judge 22 whether your conclusions are valid or not. 23 A. Well, it seemed to me then that because 24 this nurse anesthetist spontaneously -- or herself 25 brought up that she had worked with this male</p>

<p style="text-align: right;">242</p> <p>1 physician who engaged in these kinds of behaviors 2 but people excused me and that she experienced them 3 with Bala as belittling. To me that was evidence of 4 similar behaviors being interpreted differently. 5 Q. Okay. But you have eight examples. So 6 set aside Ms. Barton's description of the other male 7 cardiologist. For your other examples, what evidence 8 -- what evidence do you have that male physicians 9 engaged in the same conduct as Dr. Bala but were 10 evaluated differently? 11 A. Okay. So I guess you're right. I guess I 12 wasn't there. I did not actually have evidence that 13 other male cardiologists. I am just extrapolating 14 from the research. 15 Q. In three of the examples that you gave in 16 this section of your report you referred to gender 17 policing. 18 A. Mm-hmm. 19 Q. What reliable method or principle used in 20 your field of expertise did you apply to reach the 21 conclusion that gender policing was involved in the 22 three examples that you gave? 23 A. So the gender policing is described and 24 illustrated very well in that study by Correll is 25 trying to guide women to behave more like female</p>	<p style="text-align: right;">244</p> <p>1 something like that to a leader in the academic 2 institution about how pleasant they were, it just 3 seemed out of line. 4 Q. Would you think it was still out line if 5 you were sending an email like that to provide 6 positive reinforcement after receiving complaint 7 after complaint after complaint about how unpleasant 8 someone is in the lab? 9 A. Well, you have to take the whole thing in 10 context. I mean, again, if all that is biased then, 11 you know, it's just a perpetuation of the kind of 12 bias that I thought it was -- 13 Q. Okay. 14 A. I thought it was patronizing. 15 Q. What reliable method or principle did you 16 use here to conclude that the comment was 17 patronizing and belittling? 18 MR. BRISCHETTO: Objection. Asked and 19 answered. 20 Go ahead. 21 THE DEPONENT: Yeah. I think just knowing 22 the kinds of communication that are used in academic 23 medicine, it just seemed to be odd that a comment 24 like that would be given to somebody of Bala's 25 stature.</p>
<p style="text-align: right;">243</p> <p>1 stereotypes and men to behave more like male 2 stereotypes. So I think in the suggestion that she, 3 you know, have coaching and that she work on her 4 communication style, that she be softer, you know, 5 all these ways to kind of make her sort of more 6 communal. You know, more in line with the female 7 gender stereotype. That would be referred to as 8 gender policing. And I think we saw quite a lot of 9 evidence of that. 10 Q. Do you know whether Dr. Henrikson made 11 similar comments to men? 12 A. I do not know if he gender policed men. 13 Q. In your third example you contend that -- 14 well, you contend that it is "Difficult to envision 15 this patronizing and belittling comment ever being 16 made to a male leader with Dr. Bala's stature." 17 A. I think that's true. I mean to, you know, 18 again, someone of her stature, she's head of the EP 19 lab, to receive an email saying the staff let me 20 know how present you were in lab today. So being 21 pleasant, again, I think that's policing her, you 22 know, into the communal role. And it just seemed to 23 me very odd that, you know, I was trying to think, 24 you know, if I would ever send something like that 25 to my chair. You know, if you would ever send</p>	<p style="text-align: right;">245</p> <p>1 BY MS. THOMPSON: 2 Q. Okay. You thought it was odd but you 3 didn't apply a reliable method or principle to reach 4 that conclusion; correct? 5 MR. BRISCHETTO: Objection. Misstates the 6 testimony. 7 Go ahead. 8 THE DEPONENT: Yes. I think that does 9 misstate it because I think I've answered before 10 that I did not do a research study at OHSU but that 11 as I saw evidence of things in the text that I 12 reviewed, if I thought it reflected the research or 13 could be supported by research I pulled it out. And 14 this was a statement I thought showed a gender 15 imbalance that I did not think this kind of email 16 would be sent to a male in the same kind of position 17 that Dr. Bala was in. 18 BY MS. THOMPSON: 19 Q. Did you interview Dr. Henrikson to 20 determine his intent behind sending this email? 21 A. No. I never interviewed Dr. Henrikson. 22 But again, you know, remember intent. I mean, a lot 23 of people don't intend to offend. They don't intend 24 to be racist or sexist. They just, you know, their 25 behavior has a negative impact on the target of that</p>

<p style="text-align: right;">246</p> <p>1 bias.</p> <p>2 Q. And it can be completely unintentional.</p> <p>3 A. It can be unintentional. Most</p> <p>4 microaggressions are unintentional.</p> <p>5 Q. Do you know if Dr. Henrikson has ever made</p> <p>6 similar comments to male doctors?</p> <p>7 A. No, I do not.</p> <p>8 Q. Dr. Carnes, on page 9 of your report you</p> <p>9 refer to -- you use the phrase "thought experiment."</p> <p>10 And I'm sorry if I already asked you this.</p> <p>11 What is a thought experiment?</p> <p>12 A. Oh, I think we mentioned it before. So it</p> <p>13 would be just taking a situation in which a male or</p> <p>14 female actor did something and then just flip it and</p> <p>15 say would I have the same reaction if a man did</p> <p>16 this? And then, you know, just sort of -- in fact,</p> <p>17 we often recommend that as a way of doing what we</p> <p>18 could call motivated self-regulation of bias. You</p> <p>19 know, if you find yourself doing something and you</p> <p>20 flip the gender and it seems odd to you probably</p> <p>21 there were stereotypes at work.</p> <p>22 Q. And is this type of thought experiment used</p> <p>23 routinely in your field of expertise?</p> <p>24 A. It is. Yeah. In the workshops we did a</p> <p>25 cluster randomized controlled study at 19</p>	<p style="text-align: right;">248</p> <p>1 encountered in trying to implement that. So that's</p> <p>2 what I based that on. She kept trying to make these</p> <p>3 improvements in the program and it needed</p> <p>4 improvements. These improvements were needed.</p> <p>5 Q. Do you believe that a leader who describes</p> <p>6 a program as mediocre is likely to be well received</p> <p>7 by staff?</p> <p>8 A. Well, I actually don't know if she used</p> <p>9 the word "mediocre." But I can't say. I don't know</p> <p>10 what she said to them.</p> <p>11 Q. I'm not asking about Dr. Bala. I'm asking</p> <p>12 about your opinion. You held multiple leadership</p> <p>13 roles in academic medicine. You have a very</p> <p>14 impressive CV. Do you believe that a leader who</p> <p>15 describes a program as mediocre is going to be well</p> <p>16 received by staff?</p> <p>17 A. Well, it depends on the context. I mean,</p> <p>18 I would -- I could imagine a leader coming in and</p> <p>19 saying right now we have a mediocre program and our</p> <p>20 goal is to be in the top five. No. I think it</p> <p>21 depends on the context.</p> <p>22 Q. In your many years in academic medicine</p> <p>23 are you aware of male leaders who are criticized,</p> <p>24 who are not well liked because of their management</p> <p>25 or communication style?</p>
<p style="text-align: right;">247</p> <p>1 departments of medicine, all of which had divisions</p> <p>2 of cardiology. And within the workshop we often</p> <p>3 encourage people to do these little thought</p> <p>4 experiments as a way of helping to recognize when</p> <p>5 bias might be occurring.</p> <p>6 Q. I understand that in your workshops you</p> <p>7 may employ the use of thought experiments with</p> <p>8 participants.</p> <p>9 A. Mm-hmm.</p> <p>10 Q. But those workshops, they're not --</p> <p>11 they're not research or studies, qualitative or</p> <p>12 quantitative; correct?</p> <p>13 A. Well, that was the intervention. The</p> <p>14 workshop was the intervention. And we found that it</p> <p>15 actually did work.</p> <p>16 Q. On page 10 of your report you describe</p> <p>17 OHSU's EP ablation program as mediocre and not up to</p> <p>18 current standards.</p> <p>19 What is the basis for that opinion?</p> <p>20 A. Well, I have to say I viewed that largely</p> <p>21 from the comments made by Dr. Bala of things that</p> <p>22 should be in place, that had been in place at Penn</p> <p>23 that were not in place. And her consistent</p> <p>24 frustration at trying to implement what she viewed</p> <p>25 as standard procedures and the resistance that she</p>	<p style="text-align: right;">249</p> <p>1 A. Ineffective. I don't know if they're</p> <p>2 criticized so much on communication style. That</p> <p>3 tends to be more gender. I think ineffective</p> <p>4 leaders. I have certainly seen men who are</p> <p>5 ineffective leaders. Because most of the leaders</p> <p>6 are men. But I've also seen very good leaders. I</p> <p>7 don't know where we're going with that but there's</p> <p>8 good -- there are good and bad men and women</p> <p>9 leaders.</p> <p>10 Q. And my question is, are you aware of male</p> <p>11 leaders ever being criticized because of their</p> <p>12 management or communication style?</p> <p>13 A. Yes.</p> <p>14 Q. On page 11 of your report you state that</p> <p>15 nurses and physician assistants who lodged</p> <p>16 complaints about Dr. Bala would have perceived</p> <p>17 similar conduct by a male attending to have been</p> <p>18 "perfectly acceptable."</p> <p>19 How do you know that?</p> <p>20 A. I mean, again, I think because it mimics</p> <p>21 the research in which those kinds of communication</p> <p>22 styles are either ignored or dismissed or viewed as</p> <p>23 being just a sign of in-charge leader.</p> <p>24 Q. Can you please identify all instances</p> <p>25 where male attendings engaged in the same behavior</p>

<p style="text-align: right;">250</p> <p>1 as Dr. Bala but those behaviors were perceived as 2 perfectly acceptable? 3 A. So again, I don't have that specific 4 information from OHSU. I am only extrapolating from 5 research that would be applicable to this setting. 6 Q. On page 11 you discussed things that you 7 think OHSU should have done to prevent or mitigate 8 bias. One of your recommendations was to have made 9 public comments in support of Dr. Bala. 10 Did I get that right? 11 A. Mm-hmm. 12 Q. How -- how often -- 13 THE REPORTER: I'm sorry, Dr. Carnes, was 14 that a yes? 15 THE DEPONENT: Yes. 16 BY MS. THOMPSON: 17 Q. How often did Dr. Henrikson make comments 18 in support of Dr. Bala? 19 A. Well, I don't know but not in any of the 20 materials I received. 21 Q. How often did Dr. Cigarroa make comments 22 in support of Dr. Bala? 23 A. I don't know. 24 Q. How often -- 25 A. It's not in any of the materials I</p>	<p style="text-align: right;">252</p> <p>1 MR. BRISCHETTO: Objection. Vague. 2 THE DEPONENT: Yeah. I mean, I don't -- I 3 think we've been over this. You know, people 4 perceived what they perceived and reported what they 5 perceived. And it got out of hand before people put 6 in processes to improve patient care in ways that 7 she wanted. She kept tirelessly advocating for 8 improved patient care and encountered resistance, 9 which they blamed on her behavior and communication 10 style rather than stepping back and saying how can 11 we make sure processes are smooth, efficient, 12 patient care is good, anesthesia staffs our cases. 13 BY MS. THOMPSON: 14 Q. I'm sorry to interrupt. 15 And those conclusions that you just 16 shared, those are based on the information that you 17 were provided, recognizing that you don't have the 18 two years' worth of department meetings, EP 19 meetings, group meetings, discussing procedures, 20 processes; correct? 21 A. Right. 22 Q. Okay. You describe the conduct of Dr. 23 Bala's coworkers -- excuse me. 24 You describe the conduct of Dr. Bala's 25 coworkers as, "absurd and discriminatory behavior."</p>
<p style="text-align: right;">251</p> <p>1 received. There was concern I think by Kaul in one 2 of the emails that she was not being given due 3 process. 4 Q. How often did Dr. Kaul make comments in 5 support of Dr. Bala? 6 A. I don't know. 7 Q. On page 11 of your report you state that 8 Dr. Henrikson sided with Dr. Bala's subordinates in 9 ways that undermined her. If the complaints about 10 Dr. Bala's conduct were valid, how would responding 11 to those complaints undermine Dr. Bala? 12 A. Again, it's the chain of command or 13 process. She should have -- it should have involved 14 discussions with the whole unit, implementing 15 processes which would support patient care rather 16 than, for example, insisting that Dr. Bala fill out 17 forms that nurses should have filled out when she 18 said the male attendings didn't have to fill them 19 out. So I guess that would be a specific example of 20 where male cardiologists were treated differently 21 than female cardiologists. So I think there were a 22 number of ways in which she was undermined with 23 nurses. 24 Q. And have you concluded that all the 25 complaints against or about Dr. Bala were not valid?</p>	<p style="text-align: right;">253</p> <p>1 MR. BRISCHETTO: What page are we on, 2 counsel? 3 MS. THOMPSON: Should be on page 11, I 4 believe. 5 MR. BRISCHETTO: Thank you. 6 BY MS. THOMPSON: 7 Q. Do you recall that, Dr. Carnes? 8 A. Well, if I'm talking about, you know, some 9 of the, for example, recommendations following I 10 believe it was the retreat, you know, for her to 11 stop wearing the Penn sweater and, you know, soften 12 her -- work on her communication style, all these 13 things to work on her communication style, the fact 14 that they were going to bring her up on violence in 15 the workplace when she was the one who was being 16 targeted, you know, some of the overreaction by some 17 of the staff, yes, I think some of it was absurd. 18 Not inviting her to the recruitment dinners. 19 Q. So Dr. Carnes, referring to information, 20 for example, you just made a comment about like 21 reporting her as a safety concern, that is nowhere 22 in your report. 23 A. Well, I guess it was just another one that 24 I remembered now. I guess it perhaps didn't seem as 25 relevant, or perhaps I thought I had enough</p>

<p style="text-align: right;">254</p> <p>1 examples.</p> <p>2 Do you want me to add that as an example</p> <p>3 of absurd behavior?</p> <p>4 Q. Well, you had enough examples for what</p> <p>5 purpose?</p> <p>6 A. Well, to show that she was targeted, I</p> <p>7 guess, and treated unfairly.</p> <p>8 Q. Okay.</p> <p>9 MS. THOMPSON: Mr. Brischetto, I just</p> <p>10 highlighted on page 11 the phrase that I'm referring</p> <p>11 to.</p> <p>12 MR. BRISCHETTO: Yes. Thank you. I found</p> <p>13 it also.</p> <p>14 MS. THOMPSON: Okay.</p> <p>15 BY MS. THOMPSON:</p> <p>16 Q. And Dr. Carnes, this comment that you made</p> <p>17 was in respect to what steps might have been taken</p> <p>18 once -- I guess I have to ask, Dr. Carnes, how did</p> <p>19 you conclude that Dr. Bala was a target or had</p> <p>20 become targeted?</p> <p>21 A. Isn't that pretty much what all of this is</p> <p>22 about, how she was a target of gender and race bias?</p> <p>23 That's what my expert opinion was. The whole</p> <p>24 report.</p> <p>25 Q. The whole report what?</p>	<p style="text-align: right;">256</p> <p>1 research and would be predicted from much of the</p> <p>2 research.</p> <p>3 Q. During the time period at issue in this</p> <p>4 case, what measures did OHSU take to ensure that</p> <p>5 employees are treated fairly?</p> <p>6 A. Well, I mean, from the information I was</p> <p>7 given it was the lack, the absence. Because Bala</p> <p>8 specifically complained to HR that she felt, you</p> <p>9 know, there was gender bias. And there was a</p> <p>10 process by which this was supposed to be moved up</p> <p>11 the -- an EEOC type evaluation. And the HR head</p> <p>12 admitted she didn't do that.</p> <p>13 Q. My question is different, Dr. Carnes.</p> <p>14 During the time period in question, what</p> <p>15 measures did OHSU take to ensure that employees are</p> <p>16 treated fairly?</p> <p>17 A. I don't think --</p> <p>18 MR. BRISCHETTO: Objection. Assumes facts</p> <p>19 not in evidence.</p> <p>20 THE DEPONENT: I don't know of any.</p> <p>21 There's a lack of evidence. I don't see that they</p> <p>22 did anything.</p> <p>23 THE REPORTER: I'm sorry, Mr. Brischetto,</p> <p>24 would you please state your objection?</p> <p>25 MR. BRISCHETTO: Sure. Objection.</p>
<p style="text-align: right;">255</p> <p>1 A. I think that's what I was asked to show</p> <p>2 was she a target of gender and race bias and I think</p> <p>3 that I have demonstrated that in my opinion as an</p> <p>4 expert, yes, she was a target of gender and race</p> <p>5 bias.</p> <p>6 Q. What reliable principles or specific</p> <p>7 methodology did you apply to conclude that the</p> <p>8 behavior of Dr. Bala's coworkers was absurd?</p> <p>9 A. I think the examples I gave illustrate</p> <p>10 that. That, you know, I keep repeating myself so I</p> <p>11 must be getting tired but, you know, not inviting</p> <p>12 her to meetings and telling her she had to get a</p> <p>13 coach and telling her that -- although coach might</p> <p>14 not have been a bad idea early on. I mean, some</p> <p>15 departments are giving female chairs coaches right</p> <p>16 away which I think would have been something OHSU</p> <p>17 might have considered. But you know, the thing</p> <p>18 about softening her communication style, things like</p> <p>19 that, I thought that was simply absurd.</p> <p>20 Q. Okay. Which Caucasian or non-minoritized</p> <p>21 male physicians did you identify who engaged in the</p> <p>22 same behavior as Dr. Bala that were treated</p> <p>23 differently?</p> <p>24 A. Well, at OHSU I think we've been through</p> <p>25 this, none. But again, it mimics much of the</p>	<p style="text-align: right;">257</p> <p>1 Assumes a fact not in evidence.</p> <p>2 THE REPORTER: Thank you.</p> <p>3 BY MS. THOMPSON:</p> <p>4 Q. Dr. Carnes, are you aware of any measures</p> <p>5 that OHSU takes to ensure that its employees are</p> <p>6 treated fairly?</p> <p>7 A. I am not aware. No. They have a</p> <p>8 statement on their website that they value diversity</p> <p>9 and have a wonderful learning environment but I</p> <p>10 don't know what specific processes they take to</p> <p>11 ensure.</p> <p>12 Q. How do you know what's on OHSU's website?</p> <p>13 A. Well, I just was looking at it last night.</p> <p>14 I thought, oh, I wonder if OHSU -- and I just looked</p> <p>15 and they have like a diversity statement.</p> <p>16 Q. But you did not rely on your review of</p> <p>17 OHSU's web page --</p> <p>18 A. No, no, no, no.</p> <p>19 Q. -- in forming your opinions included in</p> <p>20 your 2021 report; correct?</p> <p>21 A. No. Unh-unh.</p> <p>22 Q. Okay. Did you ask for any information</p> <p>23 about what measures OHSU had in place at the time to</p> <p>24 ensure that employees were treated fairly?</p> <p>25 A. No.</p>

<p style="text-align: right;">258</p> <p>1 Q. Is --</p> <p>2 A. But they are a public institution so I</p> <p>3 think that it is imperative that people in protected</p> <p>4 groups are treated the same. So they should have</p> <p>5 had something in place to ensure that that happened.</p> <p>6 And it did not appear to me that whatever it was</p> <p>7 they had in place was invoked in this situation.</p> <p>8 Q. Is your -- and I don't know if I should</p> <p>9 say your former or your current -- is the University</p> <p>10 of Wisconsin at Madison, is that a public</p> <p>11 institution?</p> <p>12 A. Yes. Yes. We're the land grant</p> <p>13 institution.</p> <p>14 Q. So as a public institution, are all of</p> <p>15 your policies available online for the public?</p> <p>16 A. Including our salaries. Yep.</p> <p>17 Q. Yes.</p> <p>18 A. Yep.</p> <p>19 Q. Okay. So at the time that you authored</p> <p>20 your report you had access to a publicly available</p> <p>21 website for OHSU.</p> <p>22 A. Mm-hmm.</p> <p>23 Q. Did you go to that website to research or</p> <p>24 look at any of OHSU's policies related to ensuring</p> <p>25 that employees are treated fairly, equally, and with</p>	<p style="text-align: right;">260</p> <p>1 sometimes be beneficial to physicians regardless of</p> <p>2 gender or race?</p> <p>3 A. Yeah. And I think it was, you know, kind</p> <p>4 of too late. I think that came like right at the</p> <p>5 end but I think had they approached this situation</p> <p>6 up front, like saying, you know, what can we do to</p> <p>7 help Bala be successful, I think many organizations</p> <p>8 are hiring like executive coaches for the first</p> <p>9 year. And I think Ohio State, I believe, published</p> <p>10 on a program they did with executive coaching that</p> <p>11 was out of their NSF ADVANCE program which showed</p> <p>12 that it was highly effective.</p> <p>13 Q. Have you ever used a professional coach</p> <p>14 yourself?</p> <p>15 A. I actually did. After I did the ELAM</p> <p>16 program, they had a coach there and I thought, oh,</p> <p>17 this is fun. So I did hire a coach for six months.</p> <p>18 Q. And did you find it beneficial?</p> <p>19 A. Yes, I did. Yeah.</p> <p>20 Q. And have you ever recommended the services</p> <p>21 of a professional coach to anyone?</p> <p>22 A. I have. I have recommended it to a number</p> <p>23 of people. And some of them have come back to me</p> <p>24 and said it was very helpful.</p> <p>25 Q. Again, this isn't reliable or scientific</p>
<p style="text-align: right;">259</p> <p>1 respect?</p> <p>2 A. No. If I did I have no memory of doing</p> <p>3 it.</p> <p>4 Q. Okay.</p> <p>5 A. So if I did, it didn't inform my</p> <p>6 testimony.</p> <p>7 Q. And I think we already went over this.</p> <p>8 You don't remember specifically how many complaints</p> <p>9 were received by OHSU about Dr. Bala; correct?</p> <p>10 MR. BRISCHETTO: Objection. Asked and</p> <p>11 answered.</p> <p>12 THE DEPONENT: Four, maybe.</p> <p>13 BY MS. THOMPSON:</p> <p>14 Q. Do you know how many complaints about Dr.</p> <p>15 Bala were received from persons who are not employed</p> <p>16 by OHSU?</p> <p>17 A. No.</p> <p>18 Q. Are you aware of any complaints that OHSU</p> <p>19 received from people who are not employed by OHSU?</p> <p>20 A. No.</p> <p>21 Q. Do you know how many times Human Resources</p> <p>22 met with Dr. Bala and Dr. Henrikson?</p> <p>23 A. No.</p> <p>24 Q. Do you agree that professional coaches --</p> <p>25 actually, you just testified about this -- can</p>	<p style="text-align: right;">261</p> <p>1 but anecdotally, what did people report? What was</p> <p>2 your experience? What was beneficial about working</p> <p>3 with a professional coach?</p> <p>4 A. Well, my impression was they're almost</p> <p>5 like a subspecialist in medicine. You know, it's a</p> <p>6 pattern of behavior they've seen again and again.</p> <p>7 And so when you approach them and say, oh, I'm</p> <p>8 having trouble navigating this they're like, oh,</p> <p>9 have you tried this? And they would actually give</p> <p>10 you a specific behavior to try and you're like, wow,</p> <p>11 that really worked. So they were really very, you</p> <p>12 know, action oriented. Very helpful.</p> <p>13 Q. The professional coach that you hired, was</p> <p>14 any of that coaching provided through a -- I'm</p> <p>15 trying to find the right word -- through a lens</p> <p>16 recognizing that everyone holds gender and racial</p> <p>17 biases?</p> <p>18 A. Well, I did specifically choose somebody</p> <p>19 who had -- she was one of the first women chairs in</p> <p>20 academic medicine in a basic science department so I</p> <p>21 thought she'd really understand. She's since passed</p> <p>22 away. But I had referred a couple of other people</p> <p>23 to her, too. She was very good. She understood all</p> <p>24 -- she understood all that even though she hadn't</p> <p>25 studied it.</p>

<p style="text-align: right;">262</p> <p>1 Q. And why did you seek out someone who 2 understood how gender or racial biases operate in 3 academic medicine as a professional coach. 4 A. Well, I don't know if it's useful to get 5 into my personal experience. I had a very large NIH 6 grant and it was sort of taken away from me and 7 given to a male PI. So it was kind of a low point 8 in my life. And so I met with her. And then I kind 9 of redirected my research and actually, it was the 10 best thing that ever happened, so. 11 Q. Did you think that that grant was taken 12 away from you because of your gender? 13 A. Well, it was complicated. 14 Q. So was your gender one of your factors 15 that you think that led to your grant being moved to 16 a man? 17 A. It was more complicated than that. It was 18 retention. There were a lot of things involved. 19 Q. Okay. 20 A. I can't say for sure if I had been a man 21 if it wouldn't have also been taken away from me if 22 that's what you're asking. 23 Q. Okay. 24 MS. THOMPSON: Mr. Brischetto, I know that 25 you had requested a break. I'm in a good place to</p>	<p style="text-align: right;">264</p> <p>1 record. 2 (WHEREUPON, a recess was taken.) 3 THE VIDEOGRAPHER: We are on the record. 4 The time is 4:39 p.m. 5 You may now proceed. 6 MS. THOMPSON: Thank you. 7 BY MS. THOMPSON: 8 Q. Dr. Carnes, I want to go back to page 1 of 9 your report. You state on page 1 of your report, 10 "There is no doubt that Dr. Bala endured relentless 11 sex and race discrimination due to her status as a 12 woman physician of Asian-Indian descent in ways that 13 are supported by a large body of experimental 14 research and that have been well- documented to 15 occur within academic medicine." 16 Did I read that correctly? 17 A. Yes. 18 Q. Okay. How exactly did you arrive at that 19 conclusion 20 A. I think the whole testimony, the whole 21 written testimony speaks to that. 22 Q. What written testimony are you referring 23 to? 24 A. The written report I mean. The report 25 that follows that statement I think provides</p>
<p style="text-align: right;">263</p> <p>1 take a break. Do you want to -- I guess I'm going 2 to ask for me and I think it'll be short but I'd 3 like a comfort break. 4 MR. BRISCHETTO: How long are you going to 5 take? 6 MS. THOMPSON: Five minutes. 7 MR. BRISCHETTO: Five minutes? 8 Molly, how long do you want to take? 9 THE DEPONENT: Yeah, five minutes will 10 work. 11 How much more do you think we have? 12 MS. THOMPSON: Well, it kind of depends on 13 you, Dr. Carnes. 14 THE DEPONENT: Well, let's not talk any 15 more about my personal history. That could go on 16 forever. So how many more questions do you have? 17 MS. THOMPSON: It depends on you, Dr. 18 Carnes. 19 THE DEPONENT: Okay. I'll try to be real 20 short. 21 MS. THOMPSON: We'll take a five minute 22 break and we'll come back on. 23 THE DEPONENT: All right. Sounds good. 24 THE VIDEOGRAPHER: All right. Please 25 stand by. The time is 4:30 p.m., and we are off the</p>	<p style="text-align: right;">265</p> <p>1 evidence to support the conclusion that I drew. 2 Q. Okay. Ms. Carnes, do you have a law 3 degree? 4 A. No. 5 Q. Sorry, Dr. Carnes. Please forgive me. 6 Dr. Carnes, do you have a law degree? 7 A. No. 8 Q. Do you have any legal training? 9 A. No. 10 Q. When you use the term "discrimination" in 11 your report, what are you referring to? 12 A. I'm referring to the term "discrimination" 13 the way it's understood in academic medicine. So 14 for example, the American College of Physicians 15 statement on gender bias which came out in 2018. In 16 the Annals of Internal Medicine, the American 17 College of Physicians is the professional group of 18 all internists. So it's over 160,000 members. They 19 use the term "discrimination." I had a paper. I 20 was going to read it to you exactly. Also in the 21 American College of Cardiology description of their 22 2016 wave of the Professional Life Survey, the lead 23 statement says that, "Women and minority physicians 24 experienced discrimination." So I'm using the term 25 "discrimination" based on the way it is used</p>

<p style="text-align: right;">266</p> <p>1 throughout academic medicine, including in 2 cardiology. 3 Q. Okay. And given that this is your area of 4 expertise, what is that definition of 5 discrimination? 6 A. Where individuals who identify as women or 7 who identify as non-white ethnic racial minority 8 would be treated differently in some way in terms of 9 opportunities that exist within academic medicine. 10 So opportunities for pay, education, academic 11 advancement, all of the opportunities that are 12 provided within academic medicine that would be 13 provided to one group over another. That would be 14 viewed as discrimination against the group that 15 didn't get them. 16 Q. So when you're using the term 17 "discrimination" throughout your report, is it fair 18 for me to assume that the term "discrimination" 19 means when one group is treated differently than 20 another group with respect to opportunities within 21 academic medicine? 22 A. To their detriment. Yes. 23 Q. Do you know what the legal elements of a 24 race discrimination claim are? 25 A. No.</p>	<p style="text-align: right;">268</p> <p>1 that I know it is in academic medicine. I can't -- 2 I don't know what my role is in the legal 3 profession. I would look to Mr. Brischetto to 4 instruct me to what I should do. 5 Q. Dr. Carnes, what level of probability is 6 the phrase "no doubt" meant to convey? 7 A. That I feel very confident in my 8 assessment from the materials I was given that she 9 did endure sex and race discrimination. So I feel 10 quite confident. 11 Q. Is that 100 percent certainty? 12 A. Yes. 13 Q. How did you arrive at that probability? 14 A. No doubt would generally mean 100 percent, 15 wouldn't it? So from my report. From the materials 16 I reviewed. The research that I'm aware of. The 17 research I've done. I think there was evidence to 18 support the fact that left me with no doubt that she 19 had endured sex and race discrimination. 20 Q. And again, that opinion was formed based 21 on the - 22 - 23 A. On the materials I reviewed. Yes. 24 Q. Right. And, okay. And you didn't -- you 25 didn't ask for -- you didn't review all the</p>
<p style="text-align: right;">267</p> <p>1 Q. Do you know what the legal elements of 2 gender discrimination are? 3 A. No. 4 Q. Do you think that it is your role to 5 instruct a jury as to whether Dr. Bala endured 6 gender or racial discrimination? 7 A. Well, given that it occurred within 8 academic medicine I think one could simply pull the 9 definition from the primary documents that show that 10 it occurs within academic medicine. So I think it 11 would be -- I don't know if the legal definition of 12 it could be that much different. But anyway, my use 13 of the term is as it is used in academic medicine. 14 Q. Which is that one group is treated 15 differently with respect to opportunities within 16 academic medicine to their detriment? 17 A. Yes. I would say that's true. 18 Q. Okay. Do you think it is your role as an 19 expert to instruct a jury as to whether or not Dr. 20 Bala endured sex or race discrimination? 21 A. I don't know how the legal process works 22 so I can't say what my role would be. My role would 23 be to affirm what I interpreted from the materials I 24 was given in the context of the research that I 25 know, and using the term "discrimination" in the way</p>	<p style="text-align: right;">269</p> <p>1 materials? 2 A. I guess not. 3 Q. Okay. Are there any authoritative sources 4 on empirical methodology that explain how to arrive 5 at a conclusion that there is no doubt about a 6 finding? 7 A. No. Not that I know of. 8 Q. In what publications have you used the 9 term "no doubt" to describe your findings? 10 A. Well, in this case, I was asked to be an 11 expert. So, obviously, when I'm conducting a 12 research study I put the limitations. I wasn't 13 asked to describe the limitations. I was asked to 14 give my expert opinion. Opinion. Right? And in my 15 opinion I have no doubt from the things I reviewed 16 that Dr. Bala endured sex and race discrimination. 17 So that is my opinion. 18 If it was a research study I would have 19 limitations. I would say I haven't reviewed all the 20 materials. I haven't done dah, dah, dah. But I was 21 asked for my opinion from what I was given to review 22 and I have no doubt. Is that fair enough? 23 Q. Yes. Absolutely. 24 And so is it your personal opinion that 25 you're providing that there's no doubt that she was</p>

<p style="text-align: right;">270</p> <p>1 subjected to relentless discrimination? Or are you 2 providing an opinion with scientific certainty? 3 MR. BRISCHETTO: Objection. Argumentative 4 and it's been asked and answered. 5 Go ahead. 6 THE DEPONENT: Well, I'm not just 7 providing my personal opinion as somebody on the 8 street. I'm providing an informed opinion as the 9 expert on gender bias in academic medicine. 10 BY MS. THOMPSON: 11 Q. Are you providing an opinion with 12 scientific certainty? Are you providing an opinion 13 with 100 percent scientific certainty that Dr. Bala 14 experienced relentless sex and race discrimination? 15 MR. BRISCHETTO: Objection. Asked and 16 answered multiple times. 17 Go ahead. 18 THE DEPONENT: It seems like you're 19 pushing apples and oranges. I was asked to provide 20 expert testimony, which by its very nature has got 21 to be an opinion. So is it a personal opinion? 22 Well, yes, I guess if it's my opinion it's personal. 23 But it's my opinion based on my expertise as 24 somebody who has studied gender bias in academic 25 medicine and who is familiar with the body of</p>	<p style="text-align: right;">272</p> <p>1 he states objections on the record so that they can 2 be reviewed later. But during the deposition you do 3 have to answer the question. 4 A. So 100 -- 5 MR. BRISCHETTO: Yes. 6 THE DEPONENT: So I guess, yeah, I don't 7 know. 8 MR. BRISCHETTO: I just want to, you know, 9 object to the instruction. You are perfectly within 10 your rights to stay within your answer and neither 11 attorney should be arguing with you about your 12 answer. 13 So I object again. It was asked and 14 answered. 15 Go ahead. 16 THE DEPONENT: Okay. So then I think I've 17 answered it. 18 MS. THOMPSON: Ms. Byrd, could you read 19 back my last question to the witness, please? 20 THE REPORTER: Stand by. 21 (WHEREUPON, the record was played back.) 22 MR. BRISCHETTO: Same objection as I 23 stated before. 24 BY MS. THOMPSON: 25 Q. Dr. Carnes?</p>
<p style="text-align: right;">271</p> <p>1 research in that realm. So I guess I'm not sure 2 what you're asking. Is that a scientific process? 3 I don't think providing an expert opinion is a 4 scientific -- it's not a research study. I think we 5 went through that like hours ago. So I don't know. 6 I don't know what you're asking. I did the best I 7 could with what I was given. I was left with no 8 doubt that what she experienced would be supported 9 by a large body of experimental research as evidence 10 of gender bias and race bias. 11 BY MS. THOMPSON: 12 Q. Let me ask it a little different way if my 13 question is not clear. 14 Is it your expert opinion that there is 15 100 percent scientific certainty that Dr. Bala 16 experienced relentless sex and race discrimination? 17 MR. BRISCHETTO: Objection. 18 Argumentative. Asked and answered multiple times 19 over. 20 Go ahead. 21 THE DEPONENT: Yeah. So can you just go 22 on to the next question then? 23 BY MS. THOMPSON: 24 Q. The way this process works, Dr. Carnes, 25 and Mr. Brischetto may have explained this to you,</p>	<p style="text-align: right;">273</p> <p>1 A. Well, an opinion is an opinion. So yes, 2 that is my opinion. 3 Q. So let me confirm. Is your expert opinion 4 not a scientific opinion? 5 MR. BRISCHETTO: Objection. You're 6 arguing with the witness. 7 Go ahead. 8 THE DEPONENT: An opinion is an opinion. 9 Yeah. An opinion is an opinion. That's my opinion. 10 I don't understand what you're asking. 11 BY MS. THOMPSON: 12 Q. Well, Dr. Carnes, you're a scientist. 13 A. Yes. 14 Q. And scientists use reliable principles and 15 methods, right, to test hypotheses, to collect 16 information and the like; correct? 17 A. Mm-hmm. 18 Q. That's why you received and have been so 19 successful in obtaining grants to conduct research 20 and studies to promote the advancement of women in 21 medicine; correct? 22 A. Mm-hmm. Mm-hmm. 23 Q. Okay. And so you are here not as just a 24 layperson providing your opinion. You are here as 25 an expert witness.</p>

<p style="text-align: right;">274</p> <p>1 A. Mm-hmm.</p> <p>2 Q. And as I understand from your report, you</p> <p>3 have put yourself forward as an expert --</p> <p>4 A. Mm-hmm.</p> <p>5 Q. -- in a particular area of academic</p> <p>6 medicine.</p> <p>7 A. Mm-hmm.</p> <p>8 Q. Specifically, with respect to gender,</p> <p>9 racial, and ethnic biases and how they impact women</p> <p>10 and minoritized doctors in academic medicine. Is</p> <p>11 that fair?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. I'm not trying to be cute. I'm not</p> <p>14 trying to be argumentative. An opinion isn't just</p> <p>15 an opinion in this type of arena. You are being</p> <p>16 proffered as an expert.</p> <p>17 A. Right. And it is my expert opinion. I</p> <p>18 have no doubt. I'm not -- I have no doubt that Dr.</p> <p>19 Bala endured relentless sex and race discrimination.</p> <p>20 So as a scientist I have no doubt. Is that fair?</p> <p>21 But when you say -- but the way you were using</p> <p>22 scientist it just didn't -- it didn't sound right or</p> <p>23 scientific. But as a scientist, yes. My opinion, I</p> <p>24 have no doubt based on what I reviewed that Dr. Bala</p> <p>25 endured race and sex discrimination.</p>	<p style="text-align: right;">276</p> <p>1 that would be the closest thing. Yeah.</p> <p>2 Q. Recognizing that you haven't reviewed all</p> <p>3 facts in this case, do you still feel confident that</p> <p>4 you will be able to say under oath that you have no</p> <p>5 doubt that Dr. Bala endured relentless sex and race</p> <p>6 discrimination with 100 percent certainty?</p> <p>7 MR. BRISCHETTO: Objection. Misstates the</p> <p>8 evidence. Asked and answered.</p> <p>9 Go ahead.</p> <p>10 THE DEPONENT: I do think I would be able</p> <p>11 to say that. That based on my expert opinion I</p> <p>12 don't -- I have no doubt anyway that there was race</p> <p>13 and sex discrimination.</p> <p>14 BY MS. THOMPSON:</p> <p>15 Q. Dr. Carnes, when you prepared your report,</p> <p>16 did you seek to provide an objective, unbiased</p> <p>17 presentation of the research in your field of study</p> <p>18 that may be relevant to this case?</p> <p>19 A. Yes.</p> <p>20 Q. In preparing your report did you seek to</p> <p>21 present the relevant research in an evenhanded way</p> <p>22 without favoring one party over the other?</p> <p>23 A. I would say yes.</p> <p>24 Q. Did you omit any details about the</p> <p>25 research that might not be favorable to Dr. Bala's</p>
<p style="text-align: right;">275</p> <p>1 Q. Have you ever published a study in which</p> <p>2 you describe your finding as being beyond a doubt or</p> <p>3 being absolutely correct?</p> <p>4 MR. BRISCHETTO: Objection. Asked and</p> <p>5 answered.</p> <p>6 Go ahead.</p> <p>7 THE DEPONENT: Yeah. I mean, I can't -- I</p> <p>8 do not remember if I have used those words so I</p> <p>9 don't know.</p> <p>10 BY MS. THOMPSON:</p> <p>11 Q. Have you ever reviewed a study in which</p> <p>12 authors describe their findings as being beyond a</p> <p>13 doubt or as being absolutely correct?</p> <p>14 A. I probably have. I mean, every study</p> <p>15 cites the limitations but I do believe in opinion</p> <p>16 pieces from experts which often occur in JAMA and,</p> <p>17 you know, all journals have opinion pieces. And in</p> <p>18 the opinion pieces experts will often say they have</p> <p>19 no doubt that something is the way it is.</p> <p>20 Q. And those opinion pieces, are those</p> <p>21 similar to like an editorial article?</p> <p>22 A. Yeah. Yeah. It could be an editorial.</p> <p>23 Yeah.</p> <p>24 Q. Okay.</p> <p>25 A. And those would be experts. So I guess</p>	<p style="text-align: right;">277</p> <p>1 case?</p> <p>2 A. I don't -- I don't think so. No.</p> <p>3 Q. When you were conducting your literature</p> <p>4 review, were you specifically looking for studies to</p> <p>5 support Dr. Bala's case?</p> <p>6 A. No. I looked for any studies that looked</p> <p>7 at gender. It just happens that they are pretty</p> <p>8 unanimous in showing the existence of bias against</p> <p>9 women and non-white physicians.</p> <p>10 Q. Okay. Would you agree that there are</p> <p>11 other factors beyond gender, race, or ethnicity that</p> <p>12 might impact people's perceptions of behavior by</p> <p>13 others?</p> <p>14 A. Sure. Yes.</p> <p>15 Q. Did you review any of that literature in</p> <p>16 forming your conclusions in your report?</p> <p>17 A. I'm not sure I'm aware of other studies.</p> <p>18 What kinds of studies? In academic medicine, like</p> <p>19 what kind of studies are you talking about? I'm not</p> <p>20 aware of -- well, class. I guess there's studies</p> <p>21 looking at class bias. LGBTQ. I probably did not</p> <p>22 review the LGBTQ literature. No, you're right.</p> <p>23 There probably is research in academic medicine</p> <p>24 looking at other biases that I did not review.</p> <p>25 You're probably right.</p>

<p style="text-align: right;">278</p> <p>1 Q. Did you omit any findings or studies that 2 might not be favorable to Dr. Bala's case? 3 A. No. 4 Q. On page 2 of your report you state, 5 "Multiple academic studies over the last 30 years 6 have documented discrimination against women 7 physicians in academic medicine." 8 Did I get that right? 9 A. Yes. 10 Q. Do you know if any of these studies used a 11 legal definition of the term "discrimination"? 12 A. I would doubt it. I think discrimination 13 is used pretty much as we said in academic medicine. 14 Q. Okay. At the beginning of your report, 15 and actually I'll go to it. 16 Here it is. 17 MS. THOMPSON: And Mr. Brischetto, I'm on 18 page 2 and I'm highlighting for you right now what 19 I'm going to be asking about. 20 BY MS. THOMPSON: 21 Q. Why did you use the phrase "to make the 22 case" that leaders at OHSU have no excuse for being 23 unaware of the challenges Dr. Bala faces as a woman 24 of color? 25 A. Well, because I think at the top where it</p>	<p style="text-align: right;">280</p> <p>1 behaviors, and make decisions." 2 And I think we've been over this. And I'm 3 not going to keep trying to ask you the same 4 questions. We've already established that, yes, 5 implicit biases, that they operate unconsciously. 6 We're not aware of them; right? 7 A. Yes. Yes. 8 Q. Okay. 9 A. Sorry. I was nodding. 10 Q. That's all right. 11 On page 3 of your report you discuss 12 various research about women physicians of color 13 experiencing discrimination in the workplace. And 14 we touched on this briefly earlier. But would you 15 agree that many, if not all of the studies cited in 16 your report rely on self-reporting by physicians? 17 A. Most of it relies on self-reporting. Yes. 18 But the data from the AAMC relies on data from 19 academic medicine -- the 140-some academic medical 20 centers looking at the percentage of women at 21 various rank and in various specialties. So the 22 perception of bias in discrimination is subjective 23 in surveys but objective in the data about lack of 24 promotion. NIH looks at data on the awarding of 25 grants. So, you know, large, multicenter grants are</p>
<p style="text-align: right;">279</p> <p>1 says the two things I was asked to do, one was to 2 look to see if there was evidence of bias. And the 3 second was to comment on whether OHSU should have 4 done something. So I was -- perhaps the word -- 5 just like evidence has a different meaning in 6 medicine and law, it sounds like discrimination has 7 a difference. And "make the case," I was simply 8 saying -- I was simply responding to that request 9 that I evaluate whether OHSU should have done 10 something. So I think the word "case" is 11 interpreted differently than legal terms. I was 12 simply answering that question that I was asked to. 13 Q. When you -- why did you use the phrase 14 here, "then I will more specifically show." Why did 15 you use that phrase? 16 A. Well, because that's what I did, isn't it? 17 I showed how -- what happened to Dr. Bala is what 18 would be predicted by that research. 19 Q. On page 7 of your report you state -- 20 excuse me. 21 On page 7 of your report you state that, 22 "Research shows that we are generally unaware of 23 these implicit biases but they can influence the way 24 we process information, interact with and judge 25 people, respond emotionally to another person's</p>	<p style="text-align: right;">281</p> <p>1 much more likely to have male PIs than women PIs. 2 So there is objective data as well but yes, most of 3 the studies are survey self-report, and certainly, 4 qualitative studies are individual human interviews. 5 Q. So on page 3 you have a long list and I 6 have it up on my screen, but you have a long list of 7 citations related to the sort of qualitative 8 research based on self-reporting. 9 A. But that's not all qualitative. Some of 10 those were surveys. 11 Q. Okay. 12 A. Some is qualitative but some are surveys. 13 Q. Okay. So for the surveys, do you know how 14 discrimination was defined in those surveys? 15 A. I think like Nunez-Smith has done a lot of 16 work in this area. And it was surveys, again, 17 largely the survey questions arise from qualitative 18 work. I don't know exactly what surveys she used 19 but it would include questions that would get at 20 experiences that have been described in qualitative 21 work and then the surveys would look at the 22 prevalence of this kind of research. I mean, of 23 this kind of discrimination. 24 Q. So you don't know how discrimination was 25 defined in these particular surveys or studies?</p>

<p style="text-align: right;">282</p> <p>1 A. No. But I would say if you were using 2 that umbrella definition of unequal opportunities 3 that wound up disadvantaging individuals from one 4 group over another I would say that is pretty 5 consistent. I mean, I would say that definition 6 would be endorsed by members of all these studies. 7 Authors all these studies. 8 Pololi. Linda Pololi has done a lot of 9 work both with survey and interview. And they tend 10 to triangulate. They tend to reinforce each other in 11 terms of the experience of women and ethnic racial 12 minority physicians. 13 MS. THOMPSON: I've just placed into the 14 chat Document C, which I think will be Exhibit -- 15 THE REPORTER: Exhibit 9. 16 MS. THOMPSON: -- 9. 17 Ms. Byrd, did I have that correct? 18 THE REPORTER: Yes. 19 (WHEREUPON, Exhibit 9 was marked for 20 identification.) 21 BY MS. THOMPSON: 22 Q. Dr. Carnes, do you have access to what I 23 just pasted into the chat? I've also -- 24 A. Yes, I see it. Uh-huh. By Patricia 25 Devine. Uh- huh.</p>	<p style="text-align: right;">284</p> <p>1 MR. BRISCHETTO: You don't get to ask the 2 questions, Dr. Carnes. 3 THE DEPONENT: Oh, sorry. I'm sorry. But 4 she's, yeah, she's a powerhouse. She's amazing. 5 BY MS. THOMPSON: 6 Q. Well, Dr. Carnes, one of the reasons I'm 7 asking you about Dr. Devine's work is because of 8 your many collaborations with her; right? You've 9 collaborated with her significantly; is that fair? 10 A. Oh, yeah. She's amazing. She was the 11 first person to define the difference between what 12 we now call implicit and explicit bias. She called 13 it the automatic and controlled aspects of 14 prejudice. In 1989, she published that. 15 Q. Are you familiar with the concept of 16 individuating instead of generalizing? 17 A. Mm-hmm. 18 Q. Could you describe what individuating is? 19 THE REPORTER: I'm sorry, Dr. Carnes, was 20 that a yes? 21 THE DEPONENT: Oh, yes. Yes. Yes. 22 So that's one of the strategies that we 23 suggest people use to help break the bias habit. So 24 it's sort of rather than just jumping to an 25 assumption about somebody based on their group, you</p>
<p style="text-align: right;">283</p> <p>1 Q. Are you familiar with this outline? 2 A. No. No, this is -- this comes from 3 Patricia's own work. We collaborated on one study 4 but it looks like this is stuff she's done on her 5 own I think. 6 Q. Did you work with Dr. Devine to develop a 7 bias intervention program? 8 A. We -- I invited her in as a collaborator 9 on the first cluster randomized control study I 10 conducted, developing that intervention, developing 11 a bias habit reduction workshop, and we tested it at 12 the University of Wisconsin involving 92 13 departmental-type units. So yes, I worked with her, 14 not on this particular study. It looks like this 15 involves high school students. But I worked with 16 her on a study, developing that workshop and 17 studying at the University of Wisconsin. And then 18 she was not part of the multisite study in which we 19 kind of took elements of that successful workshop 20 and adapted it specifically for academic medicine. 21 Q. Okay. So -- 22 A. Why are you asking about Patricia's work? 23 She's, I mean, she's a pioneer in this work. 24 But why are you asking about Patricia's 25 work?</p>	<p style="text-align: right;">285</p> <p>1 know, so like if you see somebody from the Midwest 2 you say, oh, they're going to have Midwest nice. So 3 instead of that you practice getting individuating 4 information about that person. Are they from Ohio? 5 Are they from a big -- or Minneapolis? Are they -- 6 are they White? Are they of Scandinavian descent? 7 So you get more, you know, are they a professor? 8 Are they a farmer? You get more individuating 9 information. And it turns out that particularly if 10 you get that information early before you have a 11 chance to come to a snap judgment, it can really 12 help reduce bias. 13 BY MS. THOMPSON: 14 Q. This individuation, I don't know what to 15 call it. Individuation theory, does it -- 16 A. Individuating. That's what we call it. 17 Q. Individuating. Does that help reduce the 18 impact of implicit biases or reliance on 19 stereotypes? 20 A. Yes. 21 Q. And is it the concept that the more you 22 know about an individual the less likely you are to 23 rely on implicit biases, unconscious biases, is that 24 correct? 25 A. Yes. That is true. A lot of it depends</p>

<p style="text-align: right;">286</p> <p>1 on the order of information presentation though 2 because it could be the fact that if you've already 3 made that assumption you might selectively attend to 4 information that could actually reinforce a bias. 5 So one has to be a little bit careful of that 6 because you could actually use individuation to 7 reinforce biases. So we always kind of have that 8 caveat in our workshop. The order of information is 9 important. 10 Q. Right. But it also -- it also could work 11 the other way; right? Which is, you have an initial 12 impression of someone based on unconscious biases 13 and stereotypes, but that through learning more 14 about them as individuals, right, applying this 15 individuating theory, that we may perceive people 16 differently because we actually know them as people, 17 as individuals. Is that fair? 18 A. That is fair. But again, the caveat being 19 it will depend on which individuating information 20 you attend to. Because if it's very neutral 21 information -- they're a professor, they're a 22 farmer, they're 35 years old. But if it's 23 information that could selectively reinforce the 24 stereotype, right, like what? Well, like directive 25 communication. Oh, she's from the East. She's</p>	<p style="text-align: right;">288</p> <p>1 overcoming bias? 2 A. Yes. Yes. 3 Q. Are you aware of any research that 4 examines how implicit biases are impacted by 5 geographical location? 6 A. I do believe that Mazarin Banaji has 7 published work looking at the implicit association 8 score across the country but I would have to go back 9 and review that work. So you asked if I'm aware of 10 it. I am aware of it but I can't cite chapter and 11 verse what she found. But I do know that there is 12 some geographic variation in the IAT scores. 13 Q. Okay. Are you aware of any research that 14 examines how implicit biases are impacted by 15 socioeconomic status? 16 A. There probably is but I am not -- I would 17 have to look it up. I can't cite that. 18 Q. Are you aware of any research that 19 examines how implicit biases are impacted by 20 people's educational background? 21 A. I'm sure that the people who house the 22 IAT, Brian Nosek and others have that data. And 23 they may have published it in that paper in the 24 European Journal of Psychology, I think, which 25 looked at like worldwide IAT scores. But I can't --</p>
<p style="text-align: right;">287</p> <p>1 going to be real abrasive in her communication style 2 and then she engages in directive communication, you 3 might actually use that information to reinforce the 4 stereotype. So you do have to be somewhat careful. 5 But yes, in the right situation, done right, 6 individuating can help mitigate the automatic 7 application of stereotypes. But you have to be 8 careful because it could also be used to actually 9 reinforce prejudicial behaviors. 10 Q. Thank you. 11 A. Assumptions. 12 Q. But this concept of individuating is 13 recognized as a potential intervention -- 14 A. Yes. 15 Q. -- within your field of study? 16 A. Yes. I mean, we even recommend it to, you 17 know, the residents. That's why we ask them to take 18 race out of the initial description of their 19 patient. You know, instead of a 45-year-old Black 20 man, a 45-year old man. Bring in race later because 21 if you see race at the beginning it may bring up 22 assumptions based on racial stereotypes, so. 23 Q. In your work with Dr. Devine and others, 24 did you identify individuation and contact with 25 members of minoritized groups as two strategies for</p>	<p style="text-align: right;">289</p> <p>1 I would have to look that up to tell you what it 2 found. 3 Q. So you're aware of the research but you 4 don't know, for example, if -- 5 A. Yeah. Not off the top of my head. Sorry. 6 Q. I'm not -- let me finish my question. 7 You're not aware of whether or not results 8 from participants on the West Coast, for example, 9 differ from participants on the East Coast? 10 A. No. I'd have to look. My vague memory of 11 it is that it was more in the South where there were 12 differences from the rest of the country but I'd 13 have to look it up. 14 Are you familiar with that? Was there a 15 difference? I don't remember. I'm not allowed to 16 ask. I'm curious now. You've got me curious. 17 Q. What is the Implicit Association Test, Dr. 18 Carnes? 19 A. So this is a timed test developed by 20 Anthony Greenwald, I believe, at University of 21 Washington, and colleagues. And it's usually done 22 on a computer screen where participants are asked to 23 very quickly push one computer key or another 24 depending on what words or pictures they see. And 25 they're asked to match it when the words or pictures</p>

<p style="text-align: right;">290</p> <p>1 align with a cultural stereotype or don't. And 2 generally, the vast majority, usually about 70 3 percent of takers of this test will more quickly 4 match the words and pictures that align with a 5 cultural stereotype than those that do not. So that 6 is the way the Implicit Association Test works. 7 Q. Okay. Do you know whether when Dr. Bala's 8 contract came up for renewal, whether her 9 supervisors and coworkers had large amounts of 10 information about her individual characteristics? 11 A. I'm sure they did. But again, that's that 12 caveat. You know, did they have some biases but 13 then they just used this individuating information 14 to reinforce or not. So I -- but yes, I'm sure they 15 had lots of information about her. 16 MS. THOMPSON: Okay. Steve, this is going 17 to make you feel better. I would like to take a 18 break. 19 MR. BRISCHETTO: Oh. Can we get a read 20 from Michelle where we are on time? 21 MS. THOMPSON: Yeah. 22 THE REPORTER: 6:25. Well, it's basically 23 6:26. 24 MR. BRISCHETTO: Okay. 25 MS. THOMPSON: All right. So 30 more</p>	<p style="text-align: right;">292</p> <p>1 and research has shown, you know, women have the 2 same gender biases as men. Black individuals 3 overall have the same biases as those who identify 4 as White. So it would not surprise me at all. 5 Q. So are you saying that the research shows 6 that -- so for example, Asian women will hold biases 7 against other Asian women in the same way that a 8 White male will hold biases against Asian women? 9 A. Well, I mean, I'm sure not explicitly. 10 But in terms of the cognitive processes that occur 11 because we know the content of these stereotypes, 12 that same kind of filtering would happen in 13 everybody because we all absorb the content of these 14 stereotypes simply by living in this culture. 15 Q. And when you refer to "this culture," 16 which culture are you referring to? 17 A. The United States. And it's been shown, 18 for example, even people who move from other 19 countries within a relatively short time are aware 20 of the content of stereotypes about various ethnic 21 and racial groups and about men and women as a 22 binary. They pick it up very quickly. You know, 23 because you're bombarded with these messages. 24 Magazines and movies, you know, social media. You're 25 bombarded with messages that reaffirm these</p>
<p style="text-align: right;">291</p> <p>1 minutes. 2 MR. BRISCHETTO: Yeah. 3 THE VIDEOGRAPHER: Okay. Please stand by. 4 The time is 5:18 p.m., and we are off the 5 record. 6 (WHEREUPON, a recess was taken.) 7 THE VIDEOGRAPHER: We are on the record. 8 The time is 5:33 p.m. 9 You may now proceed. 10 MS. THOMPSON: Give me one second. I just 11 wanted to get to the right page of your report that 12 I wanted to ask you about. 13 BY MS. THOMPSON: 14 Q. Dr. Carnes, earlier I asked you some 15 questions about whether or not you knew that race or 16 ethnicity of any of the persons involved in this 17 case other than Dr. Bala, and you testified that you 18 did not; correct? 19 A. Correct. 20 Q. If one of the individuals who either 21 complained about Dr. Bala or made employment 22 decisions with respect to Dr. Bala were not 23 Caucasian, would that impact your opinion in any 24 way? 25 A. No. Again, we all swim in the same sea,</p>	<p style="text-align: right;">293</p> <p>1 stereotypes, you know, from the time you're born. 2 Q. Okay. So regardless of a person's 3 individual characteristics or experience, is it your 4 opinion that regardless of individual experience or 5 individual characteristics that their implicit 6 biases are the same as everyone else? 7 A. Pretty much. I mean, at least 70 percent 8 of a group would show that kind of bias. 9 Q. Seventy percent? 10 A. That's about what it usually is. Seventy 11 percent. At least if you're looking at the Implicit 12 Association Test as a measure of the strength of the 13 association between stereotypes and the speed with 14 which you answer on that test. It's usually about 15 70 percent. So 70 percent of faculty at the 16 University of Wisconsin were strongly linked. 17 Female gender names with a subordinate role and male 18 gendered names with a leadership role. 19 Q. Which meant that 30 percent did not 20 possess these same implicit biases? 21 A. Right. Yeah. They were either neutral or 22 even slightly favored the men. 23 Q. Okay. So I'm glad I asked that question 24 because I think throughout the day you have said 25 that everyone holds the same biases regardless of</p>

<p style="text-align: right;">294</p> <p>1 who they are. Men and women hold the same biases 2 against women. Men and women hold the same biases 3 against men. 4 Is it your testimony now that that's not 5 accurate? 6 A. Well, that's what an Implicit Association 7 Test, which is only one. 8 Q. Okay. 9 A. And it's been highly criticized, too. 10 It's only one little measure but it just shows you 11 how prevalent they are. And also, you know, people 12 have stronger prejudices against some groups than 13 others. But generally, we are all aware of the 14 content of stereotypes. And yes, generally, it 15 tends to influence the way we evaluate individuals 16 from those groups. All of us. Yes. 17 Q. But the research also shows that there are 18 individuals where those stereotypes or biases are 19 not present? At least -- 20 A. Where they do not show them on an Implicit 21 Association Test, which is only one -- right. I 22 don't -- I don't -- there are other measures. You 23 know, how many times you blink when you talk to 24 somebody from another group. How much eye contact 25 you have. How close or far away you sit. There are</p>	<p style="text-align: right;">296</p> <p>1 A. Well, again, just to put a lot of 2 information in one table. Because in our society, 3 male is men and roles associated with males, 4 characteristics associated with male are viewed as 5 higher status than women and things associated with 6 female. White skin. White is viewed as -- has 7 higher status. And then skins of color. And so I 8 wanted to draw the biggest polarity by comparing 9 White male with women of color to get that 10 intersectionality of two relatively different status 11 groups. 12 Q. Okay. This will sound similar to a 13 question that I asked you previously but it's 14 different. 15 If the -- if we had an Asian male being 16 compared to a woman of color, would this model 17 stand? Like if we just crossed out White male and 18 we wrote Asian male, would this table be accurate? 19 A. It would be different. The content of 20 stereotypes about Asians is also known. People can 21 list stereotypes about Asians. In fact, in the 22 study by Ghavami and Peplau that I cited, many of 23 the participants were Asian, and they were well 24 aware of Asian stereotypes. In fact, there's some 25 interesting gender intersectionalities there because</p>
<p style="text-align: right;">295</p> <p>1 other measures, too. 2 Q. And do those other measures also 3 demonstrate that there are some people who are not 4 impacted by the characteristics of the other person 5 that one is interfacing with? 6 A. Well, there's certainly a range of the 7 strength of any kind of measure. But I mean, I 8 think generally the conclusion is that even if you 9 may be less biased on one particular social category 10 because of your life experiences, you're probably 11 going to shift bias on some other -- toward some 12 other group simply because we are all aware of the 13 stereotype. 14 Q. Okay. I'm going to screenshare this table 15 that you referred to. 16 Can you see it? 17 A. Yes. 18 Q. In this table, I see that you have a White 19 male listed. And then you have woman of color. And 20 so -- 21 A. I was trying to bring in the 22 intersectionality of race and gender. To put a lot 23 of information in one figure. 24 Q. Okay. And can you -- why did you choose 25 White male?</p>	<p style="text-align: right;">297</p> <p>1 Asian men are viewed as actually more sort of 2 stereotypically female. And some of the negative 3 evaluation may actually get attribute to that. But 4 it could potentially be negative. Yes. Because the 5 stereotypes about Asians would intersect with the 6 stereotypes about male. 7 Q. And so I don't -- that would be true if we 8 swapped in, for example, Hispanic male, that there 9 would be a shift? 10 A. There would be -- there are stereotype -- 11 it's very interesting because when you ask people 12 stereotypes about men and women, again, binary. We 13 know gender doesn't exist as a binary. But as a 14 binary, they basically will off the top of their 15 head say things about White men and women. And 16 again, Peplau showed -- Ghavami and Peplau show this 17 in their study. But then if you subsequently say, 18 well, what about -- you know, what about Asian men 19 and women? What about Hispanic Asian women? They 20 go, oh. Black men and women? Oh. And then they can 21 give you additional stereotypes. But off the top of 22 the head it is generally White males and females 23 that people list. 24 Q. Okay. So I just wanted to confirm that 25 the table that you included in your report on page</p>

<p style="text-align: right;">298</p> <p>1 12. 2 A. The figure. 3 Q. Sorry. Figure. Figure 1. This is to 4 illustrate a concept -- 5 A. Yeah. 6 Q. -- but it does not encompass or provide 7 any sort of opinion or insight into the facts of 8 this case because you don't know the race or 9 ethnicities of some of the other players involved. 10 Is that fair? 11 A. I guess that would be fair to say. I was 12 just trying to show how the exact same behavior, and 13 again, I picked White male land woman of color 14 because Bala is a woman of color and I wanted to 15 show the contrast. But just how the exact same 16 behavior when filtered unintentionally, 17 unconsciously through these stereotypes can result 18 in extraordinarily different interpretations, and 19 then wind up with very different institutional 20 responses. And I think the institutional response 21 that happened to Bala, I mean, we've seen it 22 repeatedly, and it would be supported by the 23 resurge. That, you know, heightened scrutiny, 24 disciplinary action, gender policing, much more 25 likely to occur.</p>	<p style="text-align: right;">300</p> <p>1 them. But do you know which three you sent me, 2 Steve? 3 MR. BRISCHETTO: I do. 4 THE DEPONENT: Okay. 5 MR. BRISCHETTO: Are you done, Andrea? 6 MS. THOMPSON: I'm done for today. 7 MR. BRISCHETTO: Okay. I have just two 8 questions. 9 EXAMINATION 10 BY MR. BRISCHETTO: 11 Q. And those are, Dr. Carnes, I looked over 12 the attachment to your report and there are 134 13 documents listed that were provided to you. There 14 are 232 deposition exhibits that were provided to 15 you. There are 11 depositions that were provided to 16 you, including those taken by the plaintiff and the 17 defense. 18 A. Yeah. 19 Q. And do you recall each of those individual 20 documents as you were testifying today? 21 A. Oh, I do recall reviewing them in detail 22 when I first wrote the report because I remember I 23 found it intriguing that you also had Sharon 24 Anderson's little handwritten notes. But I did not 25 review them again before this session today. I did</p>
<p style="text-align: right;">299</p> <p>1 Q. Between a White male and a woman of color? 2 A. Yes. 3 Q. All right. Dr. Carnes, did you take any 4 notes today during your deposition? 5 A. Well, I wrote down that you wanted me to 6 look up that one study of the operating room. Do 7 you still want me to find that? Is it still 8 relevant? 9 Q. Did you rely upon it in your report? 10 A. No. Unh-unh. It just came up when we 11 were discussing behavior in small groups where there 12 was kind of high-risk technical stuff going on. 13 Q. If it wasn't relied upon in your report I 14 will defer to Mr. Brischetto on that, whether or not 15 he would like to request that from you and share 16 that with us. 17 MS. THOMPSON: But Mr. Brischetto, Dr. 18 Carnes testified that you had provided her some 19 research that I don't believe we have received. And 20 so we will be keeping Dr. Carnes's deposition open 21 because we do not have all documents that Dr. Carnes 22 relied upon. 23 THE DEPONENT: Yeah. I didn't rely upon 24 those more recent papers. I didn't think they added 25 anything. But I think -- I'm not sure if I kept</p>	<p style="text-align: right;">301</p> <p>1 not. 2 Q. Okay. So when you gave your testimony as 3 to whether you had seen a variety of documents, 4 whether it be complaints from people in the 5 community outside of OHU -- OHSU, student 6 evaluations from UPenn, more than four complaints 7 from OHSU, when you gave that testimony would you be 8 surprised if those documents were amongst all of the 9 documents that you were provided and reviewed three 10 years ago? 11 A. I would not be surprised, Steve. And if I 12 forgot them I'm sorry. 13 Do you need me to go back and review them 14 again? 15 Q. I do not need you to go back and review 16 them again. I just needed to go over those three 17 questions with you. 18 A. Okay. I apologize. 19 MR. BRISCHETTO: Do those raise any 20 additional questions for you, Andrea? 21 MS. THOMPSON: Yes. Thank you, Mr. 22 Brischetto. 23 FURTHER EXAMINATION 24 BY MS. THOMPSON: 25 Q. Dr. Carnes, did you just say that you</p>

<p style="text-align: right;">302</p> <p>1 would be surprised if you learned that you hadn't 2 received evaluations from the University of 3 Pennsylvania? 4 A. I guess I wouldn't be surprised if they 5 were in all the documents that I was sent. But I 6 have to say I don't remember them. 7 Q. If you received documents from the 8 University of Pennsylvania and reviewed documents 9 from the University of Pennsylvania -- 10 MS. THOMPSON: And I will represent on the 11 record, Mr. Brischetto, that we do not believe that 12 Dr. Carnes was provided with OHSU's production of 13 Dr. Bala's faculty evaluations from the University 14 of Pennsylvania. 15 MR. BRISCHETTO: Yeah. We think that she 16 was provided those. 17 THE DEPONENT: I'm sure you did. 18 MS. THOMPSON: I'm sorry? 19 THE DEPONENT: Yeah, I'm sure you did. 20 I've just forgotten. 21 MS. THOMPSON: I'm sorry. We were talking 22 over one another. 23 THE DEPONENT: Oh, sorry. I was just 24 saying I'm sure you did but I just couldn't 25 remember.</p>	<p style="text-align: right;">304</p> <p>1 MS. THOMPSON: Give me one second. 2 MR. BRISCHETTO: Sure. 3 MS. THOMPSON: I don't want to misstate. 4 Give me one second. 5 MR. BRISCHETTO: Sure. 6 BY MS. THOMPSON: 7 Q. So Dr. Carnes, I actually have -- so if 8 you did receive, and I think I was wrong. I 9 understand based on the list that Dr. Bala's 10 attorneys prepared, that you did receive a copy of 11 Exhibit 23 to a deposition. This is Bates numbers 12 OHSURB001524 through 1531. And these are narrative 13 raw comments about Dr. Bala. 14 I was asking you questions earlier about 15 did you review or receive any documents that may 16 have been critical of Dr. Bala, your testimony was 17 no. And I appreciate -- I appreciate that your 18 memory today, two years after you wrote the report, 19 probably is not as good as when you did write the 20 report; right? 21 A. Yes. I honestly don't remember that. I 22 apologize. 23 Q. Okay. Do you remember me asking you 24 questions about was there any evidence that you 25 thought might be less favorable to Dr. Bala in the</p>
<p style="text-align: right;">303</p> <p>1 THE REPORTER: Mr. Brischetto, did you 2 have -- 3 MS. THOMPSON: All righty. 4 MR. BRISCHETTO: We can deal off the 5 record with whether or not those are there, Andrea. 6 I think they are. You think they aren't. 7 THE DEPONENT: I'm sure they are. Yeah. 8 MR. BRISCHETTO: You know. 9 MS. THOMPSON: Well, no. This is our 10 opportunity. 11 So I'm looking at -- I want to look at the 12 list of documents that you provided to Dr. Carnes. 13 Unless the list that we were provided is not 14 complete. 15 MR. BRISCHETTO: You will note in the list 16 it's all depositions which included Dr. Bala's, 17 where the UPenn student faculty evaluations were 18 gone over. It includes Exhibits 1 through 232. I 19 believe you marked the UPenn student faculty 20 evaluations as Exhibit 23. 21 MS. THOMPSON: Correct. Correct. 22 MR. BRISCHETTO: And those are all in the 23 information that are listed in the documents that 24 were given to you. We also gave you a file with all 25 those documents in them, too.</p>	<p style="text-align: right;">305</p> <p>1 records that you reviewed? Do you recall me asking 2 that? 3 A. Yes. You did ask it several times and I 4 simply did not remember reviewing material. All I 5 remember is that one thing from the University of 6 Arizona and not paying much attention. And I do not 7 remember -- I don't remember the material from Penn. 8 Q. Did you rely on it -- 9 A. Not at all. 10 Q. I'm sorry. I didn't finish my question. 11 A. Yeah. Oh, sorry. 12 Q. Did you rely on the University of 13 Pennsylvania evaluations of Bala in forming your 14 opinions that you expressed in your June 2021 15 report? 16 A. No. 17 Q. And why not? 18 A. Because I don't even remember them. I 19 can't say, honestly, Andrea, I apologize, but I 20 cannot say -- I don't know if I made a conscious 21 decision just to stick to the OHSU material. I just 22 do not remember them. 23 Q. Well, if you were using a rigorous 24 methodology to review the case materials, would you 25 have -- why wouldn't you take into consideration</p>

<p style="text-align: right;">306</p> <p>1 multiple negative evaluations about Dr. Bala from 2 the University of Pennsylvania?</p> <p>3 A. Well, it's a good question. The only 4 thing I can think of is that I must have made a 5 decision just to stick with the OHSU stuff because 6 that was what I was asked to evaluate. So it is a 7 very good question, and I may have just made that 8 decision because I think had I used them, had I used 9 them to inform my written statement I would remember 10 them.</p> <p>11 Q. So if I'm understanding correctly, you saw 12 them but you ignored them for the purposes of 13 forming your opinion in the report?</p> <p>14 A. Yeah. That makes the most sense.</p> <p>15 MR. BRISCHETTO: Object to the form. 16 Object -- object to the form of the question. 17 That's not what she testified to. And it's improper 18 foundation. And because she doesn't recall.</p> <p>19 THE DEPONENT: That is true. I don't 20 recall. But I'm assuming that must have been it. 21 Because if I actually used them I would have 22 remembered them. Or I would have referred to them.</p> <p>23 BY MS. THOMPSON: 24 Q. Why would you have referred to them? 25 A. If I thought it was relevant. And I must</p>	<p style="text-align: right;">308</p> <p>1 Pennsylvania is a different institution from OHSU, 2 the constant, if we're talking about control factors 3 as a scientist, the constant is Dr. Bala. Dr. Bala 4 is at the University of Pennsylvania. She receives 5 evaluations about her, many of which include -- and 6 we can go through them if we have to, dozens and 7 dozens of extremely critical comments by learners. 8 By learners. And I'm trying to understand why you 9 don't think that information would be relevant to 10 the opinion you formed with respect to how Dr. Bala 11 was treated at OHSU when she's the constant.</p> <p>12 MR. BRISCHETTO: Objection. Misstates the 13 exhibit. And it's argumentative. 14 Go ahead.</p> <p>15 THE DEPONENT: Well, that -- and honestly, 16 I have to say I don't remember but that may have 17 also been one of the reasons I asked to see the 18 learner evaluations at OHSU because I was focusing 19 on what happened at OHSU. But I honestly do not 20 remember. I don't remember is all I can say.</p> <p>21 BY MS. THOMPSON: 22 Q. And Mr. Brischetto asked you, I think, 23 forgive me, it's the end of the day, about -- or you 24 mentioned actually a document from the University of 25 Arizona.</p>
<p style="text-align: right;">307</p> <p>1 not have thought it was relevant.</p> <p>2 Q. You testified earlier today that you 3 thought -- getting a 360 review. Do you remember us 4 talking about a 360 review?</p> <p>5 A. At OHSU. Yes.</p> <p>6 Q. Okay. So while you think that receiving 7 360 reviews from within OHSU was relevant to your 8 opinion, is it your testimony that you do not 9 believe reviews from her prior employer, the 10 University of Pennsylvania, might be relevant to Dr. 11 Bala's credibility or the validity of the complaints 12 made about her at OHSU?</p> <p>13 A. I actually don't think it's relevant. And 14 the 360 would only be in the -- usually done in the 15 clinical or setting in which the person is working. 16 So it would be very specific to the EP lab, 17 cardiology. So no, I don't think it's relevant.</p> <p>18 Q. Why not?</p> <p>19 A. Because it's a whole different 20 institution. And I was being asked to provide my 21 opinion about what happened at OHSU.</p> <p>22 Q. Understood. But this case is about Dr. 23 Bala. You understand that, Dr. Carnes; correct?</p> <p>24 A. Mm-hmm.</p> <p>25 Q. Okay. And although University of</p>	<p style="text-align: right;">309</p> <p>1 A. Yeah. That was the only one I remember 2 that was outside. And I remember specifically 3 saying, well, that's from the University of Arizona. 4 That's the only one I specifically remember. And I 5 remember that because I know Nancy Sweitzer because 6 she was a faculty member here and she's head of 7 cardiology there. So that's why it stuck with me 8 because I thought, oh, this one's got Nancy's name 9 on it. But otherwise, I don't think I would have 10 remembered that one either.</p> <p>11 Q. And you haven't talked to anyone at the 12 University of Arizona about Dr. Bala, have you?</p> <p>13 A. No.</p> <p>14 Q. Okay. And again, similar question, why 15 did you not think that the termination letter that 16 Dr. Bala received from the University of Arizona 17 citing her problematic communications and 18 interactions with staff and others was not relevant 19 to your opinion that you gave in the OHSU case?</p> <p>20 MR. BRISCHETTO: Already been discussed. 21 Asked and answered.</p> <p>22 THE DEPONENT: Yeah. I was trying to 23 focus on OHSU material.</p> <p>24 MS. THOMPSON: All right. So I don't have 25 any more questions for today, but Mr. Brischetto, we</p>

<p style="text-align: right;">310</p> <p>1 will be keeping the deposition open until we receive 2 the studies that you provided to Dr. Carnes as I 3 believe that that information may have impacted her 4 testimony today. 5 MR. BRISCHETTO: Can we get a reading from 6 Michelle as to the length of the testimony? 7 THE REPORTER: Six fifty-three. 8 MR. BRISCHETTO: Okay. Thank you. 9 Yeah, we object to keeping the deposition 10 open and, yeah, that's all I've got to say. Thanks. 11 MS. THOMPSON: Will you be producing those 12 records, Mr. Brischetto? 13 MR. BRISCHETTO: Yeah, we're happy to give 14 you the studies that we cited to -- we asked Dr. 15 Carnes to review and that she didn't rely on. 16 I should also note we gave her those 17 studies years after the report was prepared. I 18 mean, so there's really -- there's no even 19 chronological relationship to the report. But yeah, 20 we're happy to give them to you. 21 MS. THOMPSON: And Mr. Brischetto, we need 22 those documents. It's only 4 o'clock our time but 23 we need those documents before close of business 24 today, please. 25 MR. BRISCHETTO: I don't know if I can get</p>	<p style="text-align: right;">312</p> <p>1 MR. BRISCHETTO: You want them for the 2 deposition tomorrow? That's fair. I'll get them -- 3 I'll certainly get them, you know, by the end of the 4 evening. I can do that for you. 5 MS. THOMPSON: Thank you. Thank you. 6 MR. BRISCHETTO: Yeah. I didn't realize 7 you wanted to use them tomorrow. But yeah, we can 8 accommodate that. 9 MS. THOMPSON: We don't know what we don't 10 know, Mr. Brischetto, and that's why we like to have 11 documents before depositions. 12 MR. BRISCHETTO: You are absolutely right. 13 We don't know -- 14 MS. THOMPSON: I think you taught me that 15 early on so right back at you. 16 MR. BRISCHETTO: I'm sure that it was not 17 me who taught you. 18 MS. THOMPSON: All right. 19 MR. BRISCHETTO: But thank you. 20 MS. THOMPSON: Dr. Carnes, thank you very 21 much for your time today. I know it was a long day. 22 I so appreciate your time. 23 THE DEPONENT: You're very welcome. And 24 then I think Michelle wants me to stay on for 25 spelling. Is that right, Michelle? Okay, yeah. We</p>
<p style="text-align: right;">311</p> <p>1 them to you before close of business, Andrea, but 2 we'll get them to you as soon as we can. 3 THE DEPONENT: Is it just those three 4 papers? I may have -- I might have PDFs of those. 5 Is that all you want? 6 MR. BRISCHETTO: Well, yeah. I know that 7 I don't have the papers. 8 MS. THOMPSON: Yeah. 9 MR. BRISCHETTO: I have the citations, and 10 we're happy to give you the citations. Molly, she's 11 capable of kind of getting the papers on her own. 12 THE DEPONENT: Okay. All right. Because 13 you gave me the citations and I went and I pulled 14 the papers and I probably have them but I'd have to 15 dig. 16 MR. BRISCHETTO: All right. Well -- 17 MS. THOMPSON: Mr. Brischetto, we are 18 requesting the papers. It is your witness. Your 19 witness has possession and custody of those papers. 20 Please send them to us by close of business today. 21 We have another deposition -- 22 MR. BRISCHETTO: I'm not going to do that, 23 Andrea. 24 MS. THOMPSON: -- tomorrow and we want to 25 be --</p>	<p style="text-align: right;">313</p> <p>1 can do that. 2 MR. BRISCHETTO: And Molly, I do hate to 3 do this to you but if you'll pull out the PDFs of 4 the three studies and email them to us. 5 THE DEPONENT: If you could just send me 6 the authors. Because I have them in my file 7 alphabetically. If you send me the citations then I 8 can get the PDFs really fast. 9 MR. BRISCHETTO: We'll do that. 10 THE DEPONENT: Okay, great. 11 THE VIDEOGRAPHER: Before we go off the 12 record our court reporter will take orders for the 13 transcript. 14 THE REPORTER: Ms. Thompson, would you 15 like to order the original? 16 MS. THOMPSON: Yes. 17 THE REPORTER: And Mr. Brischetto, would 18 you like to order a copy? 19 MR. BRISCHETTO: Yes. 20 THE VIDEOGRAPHER: Okay. And Mr. 21 Brischetto, Ms. Thompson will get getting today's 22 video deposition. Would you like a copy of today's 23 video deposition? 24 MR. BRISCHETTO: We would. 25 THE VIDEOGRAPHER: Okay. All right.</p>

<p>314</p> <p>1 Perfect.</p> <p>2 The time is 6:04 p.m., and we are off the</p> <p>3 record.</p> <p>4 (WHEREUPON, the deposition of MOLLY</p> <p>5 CARNES, M.D., was concluded at 6:04 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>316</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 I, Michelle Byrd, do hereby certify that I reported</p> <p>4 all proceedings adduced in the foregoing matter and that</p> <p>5 the foregoing transcript pages constitutes a full, true,</p> <p>6 and accurate record of said proceedings to the best of</p> <p>7 my ability.</p> <p>8</p> <p>9 I further certify that I am neither related to</p> <p>10 counsel or any part to the proceedings nor have any</p> <p>11 interest in the outcome of the proceedings.</p> <p>12</p> <p>13 IN WITNESS HEREOF, I have hereunto set my hand this</p> <p>14 25th day of January, 2024.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 /S/ Michelle Byrd</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>315</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 I the undersigned, Vincent Guerrero, am a</p> <p>4 videographer on behalf of NAEGELI Deposition & Trial. I</p> <p>5 do hereby certify that I have accurately made the video</p> <p>6 recording of the deposition of Molly Carnes, M.D., in the</p> <p>7 above captioned matter on the 9th day of January, 2024,</p> <p>8 taken at the location of 2014 Chamberlain Ave., Madison,</p> <p>9 WI 53726.</p> <p>10</p> <p>11 No alterations, additions or deletions were made</p> <p>12 thereto.</p> <p>13</p> <p>14 I further certify that I am not related to any of the</p> <p>15 parties in the action and have no financial interest in the</p> <p>16 outcome of this matter.</p> <p>17</p> <p>18</p> <p>19 Vincent Guerrero</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>317</p> <p>1 CORRECTION SHEET</p> <p>2 Deposition of: Molly Carnes, M.D. Date: 01/09/24</p> <p>3 Regarding: Bala vs OSU et al</p> <p>4 Reporter: Byrd/Morrison</p> <p>5 _____</p> <p>6 Please make all corrections, changes or clarifications</p> <p>7 to your testimony on this sheet, showing page and line</p> <p>8 number. If there are no changes, write "none" across</p> <p>9 the page. Sign this sheet on the line provided.</p> <p>10 Page Line Reason for Change</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 Signature _____</p> <p>25 Molly Carnes, M.D.</p>

<p style="text-align: right;">318</p> <p>1 DECLARATION</p> <p>2 Deposition of: Molly Carnes, M.D. Date: 01/09/24</p> <p>3 Regarding: Bala vs OSU et al</p> <p>4 Reporter: Byrd/Morrison</p> <p>5 _____</p> <p>6</p> <p>7 I declare under penalty of perjury the following to</p> <p>8 be true:</p> <p>9</p> <p>10 I have read my deposition and the same is true and</p> <p>11 accurate save and except for any corrections as made</p> <p>12 by me on the Correction Page herein.</p> <p>13</p> <p>14 Signed at _____,</p> <p>15 on the _____ day of _____, 2024.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 Signature _____</p> <p>25 Molly Carnes, M.D.</p>	

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